GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT

THE

BALUCHISTAN CODE

CONTAINING THE

LOCAL ENACTMENTS IN FORCE IN BRITISH BALUCHISTAN

WITH

CHRONOLOGICAL TABLES

AND

AN INDEX.



CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
1914

PREFACE.

THIS the third edition of the Baluchistan Code brings the laws in force in that province down to the end of 1913. It has been prepared on the same lines as Part I of the previous edition. The Rules and orders published under Acts of the Governor-General in Council and under Regulations made under the Government of India Act, 1870 (33 Vict., c. 3), which were contained in Part B of the Appendix to Part I of the 2nd edition, are omitted in the present edition as they are about to be published separately. Part II of the 2nd edition which was a reproduction of the portion of the "British Enactments in force in Native States" dealing with the laws in force in the Baluchistan Agency Territories has also been omitted as unnecessary, a new edition of that publication having lately been issued.

S. C. BANERJEE, *Legal Assistant,*
Legislative Department, Government of India.

SIMLA:
11th August, 1914

CHRONOLOGICAL LIST OF ENACTMENTS IN FORCE IN BRITISH BALUCHISTAN.

I.—General Enactments

[Note —T [illegible]

1	2	3	4	5
Year	No	Short title or subject	How in force and whether partially repealed or otherwise affected in British Baluchistan by legislation	Where published
1843	V	The Indian Slavery Act, 1843	Declared in force, Reg II of 1913, s 3	General Acts, Vol I, p 49
1850	XVIII	The Judicial Officers' Protection Act, 1850	Ditto . .	General Acts, Vol I, p 69
,,	XXXIV	The State Prisoners Act, 1850	Ditto	General Acts Vol I, p 80
1852	XXX	The Indian Naturalisation Act, 1852	Ditto .	General Acts, Vol I, p 93
1855	XXIV	The Penal Servitude Act, 1855	Ditto	General Acts, Vol I, p 111
1857	XI	The State Offences Act, 1857	Ditto	General Acts, Vol I, p 130
1858	III	The State Prisoners Act, 1858	S 5 declared in force, Reg II of 1913, s 3	General Acts Vol I, p 145
1859	IX	The Forfeiture Act, 1859	The whole Act, except the last para of s 18 as to pardoned persons declared in force, Reg II of 1913, s 3	General Acts, Vol I, p 211
1860	IX	The Employers and Workmen (Disputes) Act, 1860	Declared in force, Reg II of 1913, s 3	General Acts, Vol I, p 215
,,	XXI	The Societies Registration Act 1860	Ditto .	General Acts, Vol I, p 217
,,	XLV	The Indian Penal Code	Ditto . . .	General Acts, Vol I, p 248
1861	V	The Police Act, 1861.	Ditto . .	General Acts Vol. I, p 378

ENACTMENTS IN FORCE IN BRITISH BALUCHISTAN—*contd.*

I.—GENERAL ENACTMENTS.—*contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	How in force and whether partially repealed or otherwise affected in British Baluchistan by legislation.	Where published.
1861	XVI	The Stage Carriages Act, 1861.	Declared in force, Reg. II of 1913, s. 3.	General Acts, Vol. I, p. 396.
1864	III	The Foreigners Act, 1864.	Ditto . . .	General Acts, Vol. I, p. 423.
1865	X	The Indian Succession Act, 1865.	Ditto . . .	General Acts, Vol. I, p. 473.
"	XV	The Parsi Marriage and Divorce Act, 1865.	Ditto . . .	General Acts, Vol. I, p. 560.
"	XXI	The Parsi Intestate Succession Act, 1865.	Ditto . . .	General Acts, Vol. I, p. 574.
1869	IV	The Indian Divorce Act.	Ditto . . .	General Acts, Vol. II, p. 1.
"	XX	The Indian Volunteers Act, 1869.	Ditto . . .	General Acts, Vol. II, p. 88.
1870	VII	The Court-fees Act, 1870.	Declared in force with modification, Reg. II of 1913, s. 3.	General Acts, Vol. II, p. 98.
1871	I	The Cattle-trespass Act, 1871.	Declared in force, Reg. II of 1913, s. 3.	General Acts, Vol. II, p. 156.
"	V	The Prisoners Act, 1871.	Ditto . . .	General Acts, Vol. II, p. 169.
"	XXIII	The Pensions Act, 1871.	Ditto . . .	General Acts, Vol. II, p. 169.
1872	I	The Indian Evidence Act, 1872.	Declared in force, with an addition, Reg. II of 1913, s. 3.	General Acts, Vol. II, p. 192.
"	III	The Special Marriage Act, 1872.	Declared in force, Reg. II of 1913, s. 3.	General Acts, Vol. II, p. 253.
"	IX	The Indian Contract Act, 1872.	Ditto . . .	General Acts, Vol. II, p. 262.
"	XV	The Indian Christian Marriage Act, 1872.	Ditto . . .	General Acts, Vol. II, p. 341.
1873	X	The Indian Oaths Act, 1873.	Ditto . . .	General Acts, Vol. II, p. 384.
1874	*II*	[1] *The Administrator-General's Act, 1874.*	*Rep. Act III of 1913.*	

[1] Act III of 1913 which repealed this Act was brought into force while this Code was in Press.

ENACTMENTS IN FORCE IN BRITISH BALUCHISTAN—*contd*

I.—GENERAL ENACTMENTS—*contd*

1	2	3	4	5
Year	No	Short title or subject.	How in force and whether partially repealed or otherwise affected in British Baluchistan by legislation	Where published
1874	IV	The Foreign Recruiting Act, 1874	Declared in force, Reg II of 1913, s 3	General Acts, Vol II, p 423
"	IX	The European Vagrancy Act 1874	Ditto .	General Acts, Vol II, p 425
"	XIV	The Scheduled Districts Act, 1874	Ditto	General Acts, Vol. II, p 440
1875	IX	The Indian Majority Act, 1875	Ditto .	General Acts, Vol II, p 477
1877	I	The Specific Relief Act, 1877	S 9 declared in force, Reg II of 1913, s 3	General Acts, Vol II, p 524
1878	I	The Opium Act, 1878	Declared in force, Reg II of 1913, s 3	General Acts Vol II, p 559
"	VI	The Indian Treasure Trove Act, 1878	Ditto .	General Acts, Vol II p 568
"	XI	The Indian Arms Act, 1878	Extended with exceptions, Notification Nos 552 J and 198 S dated the 20th September 1913, and 28th February 1914 [Gazette of India 1913 Pt II, pp 1799 and *ibid* 1914, Pt II, p 713]	General Acts Vol II, p 600
1879	XI	The Local Authorities Loans Act, 1879	Declared in force Reg II of 1913, s 3	General Acts Vol III, p 12
1881	V	The Probate and Administration Act, 1881	Ditto .	General Acts, Vol III, p 72
"	XXVI	The Negotiable Instruments Act, 1881	Ditto .	General Acts, Vol III, p 134
"	XII	The Indian Salt Act, 1882	Ditto .	General Acts, Vol III p 380
1882	*VI*	[1] *The Indian Companies Act, 1882*	*Rep Act VII of 1913*	
1883	XIX	The Land Improvement Loans Act 1883	Declared in force, Reg II of 1913, s 3	General Acts, Vol. III p 453
1884	XII	The Agriculturists' Loans Act 1884	S 2 declared in force, Reg II of 1913, s 3	General Acts Vol III, p 511
1885	XIII	The Indian Telegraph Act 1885	Declared in force Reg II of 1913, s 3	General Acts Vol. III, p 521

[1] Act VII of 1913 by which this Act was repealed was brought into force while this Code was in Press

ENACTMENTS IN FORCE IN BRITISH BALUCHISTAN—*contd.*

1.—GENERAL ENACTMENTS—*contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	How in force and whether partially repealed or otherwise affected in British Baluchistan by legislation.	Where published.
1886	VI	The Births, Deaths and Marriages Registration Act, 1886.	Declared in force, Reg. II of 1913, s. 3.	General Acts, Vol. III, p. 564.
1887	VII	The Suits Valuation Act, 1887.	Ditto . . .	General Acts, Vol. IV, p. 5.
"	IX	The Provincial Small Cause Courts Act, 1887.	Ditto . . .	General Acts, Vol. IV, p. 10.
1888	III	The Police Act, 1888.	Ditto . . .	General Acts, Vol. IV, p. 78.
"	IV	The Indian Reserve Forces Act, 1888.	Ditto . . .	General Acts, Vol. IV, p. 81.
1889	VII	The Succession Certificate Act, 1889.	Ditto . . .	General Acts, Vol. IV, p. 137.
"	XV	The Indian Official Secrets Act, 1889.	Ditto . . .	General Acts, Vol. IV, p. 171.
1890	I	The Revenue Recovery Act, 1890.	Extends *proprio vigore* . .	General Acts, Vol. IV, p. 177.
"	VI	The Charitable Endowments Act, 1890.	Ditto . . .	General Acts, Vol. IV, p. 197.
"	VIII	The Guardians and Wards Act, 1890.	Ditto . .	General Acts, Vol. IV, p. 202.
"	XI	The Prevention of Cruelty to Animals Act, 1890.	Declared in force, Reg. II of 1913, s. 3.	General Acts, Vol. IV, p. 289.
1891	XII	The Amending Act .	Extends *proprio vigore* . .	General Acts, Vol. IV, p. 326.
"	XVIII	The Bankers' Books Evidence Act, 1891.	Declared in force, Reg. II of 1913, s. 3.	General Acts, Vol. IV, p. 349.
1892	II	The Marriages Validation Act, 1892.	Ditto . . .	General Acts, Vol. IV, p. 351.
"	X	The Government Management of Private Estates Act, 1892.	Extends *proprio vigore* . .	General Acts, Vol. IV, p. 354.

ENACTMENTS IN FORCE IN BRITISH BALUCHISTAN—*contd*

I.—GENERAL ENACTMENTS—*contd*

1	2	3	4	5
Year	No	Short title or subject	How in force and whether partially repealed or otherwise affected in British Baluchistan by legislation	Where published
1894	I	The Land Acquisition Act, 1894	Declared in force, Reg II of 1913, s 3	General Acts Vol IV, p 363
"	IX	The Prisons Act, 1894	Extends *proprio vigore*	General Acts Vol IV, p 418
1895	*XII*	*The [1]Indian Companies (Memorandum of Association) Act, 1895*	*Rep Act VII of 1913*	
"	XV	The Crown Grants Act 1895	Declared in force, Reg II of 1913, s 3	General Acts, Vol IV, p 512
1897	III	The Epidemic Diseases Act 1897	Extends *proprio vigore*	General Acts Vol IV, p 543
"	IV	The Indian Fisheries Act, 1897	Declared in force, Reg II of 1913, s 3	General Acts, Vol IV, p 545
"	VIII	The Reformatory Schools Act, 1897	Ditto	General Acts, Vol IV, p 557
"	IX	The Provident Funds Act, 1897	Extends *proprio vigore*	General Acts, Vol IV, p 567
"	X	The General Clauses Act, 1897	Declared in force, Reg II of 1913 s 3	General Acts Vol IV p 571
"	XIV	The Indian Short Titles Act, 1897	Ditto	General Acts Vol IV p 586
1898	III	The Lepers Act 1898	Extends *proprio vigore*	General Acts Vol V p 2
"	V	The Code of Criminal Procedure, 1898	Declared in force with modifications by Reg II of 1913, s 3	General Acts Vol, V p 4
"	VI	The Indian Post Office Act 1898	Extends *proprio vigore*	General Acts, Vol V, p 336
1899	II	The Indian Stamp Act 1899	Ditto	General Acts, Vol V, p 369
"	IV	The Government Buildings Act, 1899	Declared in force, Reg II of 1913, s 3	General Acts, Vol V, p 438
"	VIII	The Indian Petroleum Act, 1899	Ditto	General Acts, Vol V, p 444
"	XIII	The Glanders and Farcy Act, 1899	Ditto	General Acts Vol. V p 473

[1] Act VII of 1913 which repealed this Act was brought into force while this Code was in Press

ENACTMENTS IN FORCE IN BRITISH BALUCHISTAN—*contd.*

I.—General Enactments—*contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	How in force and whether partially repealed or otherwise affected in British Baluchistan by legislation.	Where published.
1900	II	The Prisoners Act, 1900.	Extends *proprio vigore* . .	General Acts, Vol. V, p. 488.
"	*IV*	*The* [1]*Indian Companies (Branch Registers) Act, 1900.*	*Rep. Act VII of 1913.*	
1901	II	The Indian (Tolls) Army Act, 1901.	Extends *proprio vigore* . .	General Acts, Vol. V, p. 507.
"	VII	The Native Christian Administration of Estates Act, 1901.	Declared in force, Reg. II of 1913, s. 3.	General Acts, Vol. V, p. 515.
"	VIII	The Indian Mines Act, 1901.	Extends *proprio vigore* . .	General Acts, Vol. V, p. 517.
1902	II	The Cantonments (House Accommodation) Act, 1902.	Ditto . . .	General Acts, Vol. V, p. 547.
1903	VII	The Indian Works of Defence Act, 1903.	Ditto . . .	General Acts, Vol. V, p. 620.
"	XIV	The Indian Foreign Marriage Act, 1903.	Ditto . . .	General Acts, Vol. V, p. 643.
"	XV	The Indian Extradition Act, 1903.	Ditto . . .	General Acts, Vol. V, p. 651.
1904	I	The Poisons Act, 1904.	Declared in force, Reg. II of 1913, s. 3.	General Acts, Vol. VI, p. 1.
"	VII	The Ancient Monuments Preservation Act, 1904.	Extends *proprio vigore* . .	General Acts, Vol. VI, p. 13.
1905	IV	The Indian Railway Board Act, 1905.	Declared in force, Reg. II of 1913, s. 3.	General Acts, Vol. VI, p. 79.
1906	III	The Indian Coinage Act, 1906.	Extends *proprio vigore* . .	General Acts, Vol. VI, p. 85.
1907	III	The Provincial Insolvency Act, 1907.	Declared in force, Reg. II of 1913, s. 3.	General Acts, Vol. VI, p. 103.

[1] Act VII of 1913 which repealed this Act was brought into force while this Code was in Press.

ENACTMENTS IN FORCE IN BRITISH BALUCHISTAN—*contd*

I.—GENERAL ENACTMENTS—*contd*

1	2	3	4	5
Year	No	Short title or subject	How in force and whether partially repealed or otherwise affected in British Baluchistan by legislation	Where published
1908	V	The Code of Civil Procedure 1908 ss 15 23 2[illegible] 38 48 54-64 68 7[illegible] 74 78 79 (1) 80 82 90 94 95 135 136 The First Schedule Order V—Rules 24 and 2[illegible] to 29 both inclusive Order XXI—Rules 4 to 9 Rules 11 to 14 Rules 1[illegible] 22 23 Rule 24 Rules 37 3[illegible] 40 Rule 48 Order XXV Order XXVI Order XXVII Order XXVIII Order XXXII Order XXXIII Order XXXVI Order XXXVIII—Rules 1 to 6 and 9 to 1[illegible] Order XXXIX—Rules 6 to 10 Order XLIV—*The Second Schedule* Paragraphs 17 and 18 [illegible]0 and 21 The Third Schedule	Declared in force Reg II of 1913 s 3	General Acts Vol VI p 141
	IX	The Indian Limitation Act 1908	Ditto	General Acts Vol VI p 4[illegible]0
	XVI	The Indian Registration Act 1908	Ditto	General Acts Vol VI p [illegible]60
1909	IV	The Whipping Act 1909	Extend *proprio vigore*	General Acts Vol VI p 688
1910	I	The Indian Press Act 1910	Ditto	General Acts Vol VII p [illegible]
	II	Indian Paper Currency Act 1910	Ditto	General Acts Vol VII p 11
	IX	The Indian Electricity Act 1910	Ditto	General Acts Vol VII p [illegible]6
	XVI	The Indian Census Act 1910	Ditto	Not published

ENACTMENTS IN FORCE IN BRITISH BALUCHISTAN—*contd.*

1.—General Enactments—*concld.*

1	2	3	4	5
Year.	No.	Short Title or subject.	How in force and whether partially repealed or otherwise affected in British Baluchistan by legislation.	Where published.
1911	II	The Indian Patents and Designs Act, 1911.	Extends *proprio vigore* .	General Acts, Vol. VII, p. 89.
"	VIII	The Indian Army Act, 1911.	Declared in force, Reg. II of 1913, s. 3.	General Acts, Vol. VII, p. 131.
"	XII	The Indian Factories Act, 1911.	Extends *proprio vigore* .	General Acts, Vol. VII, p. 175.
"	XVII	The Indian Airships Act, 1911.	Ditto . . .	General Acts, Vol. VII, p. 198.
1912	II	The Co-operative Societies Act, 1912.	Declared in force, with a modification Reg. II of 1913, s. 2.	General Acts, Vol. VII, p. 201.
"	IV	The Indian Lunacy Act, 1912.	Extends *proprio vigore* . .	General Acts, Vol. VII, p. 220.
"	V	The Provident Insurance Societies Act, 1912.	Ditto . . .	General Acts, Vol. VII, p. 255.
"	VI	The Life Assurance Companies Act, 1912.	Ditto . . .	General Acts, Vol. VII, p. 264.
"	VIII	The Wild Birds and Animals Protection Act, 1912.	Ditto . . .	General Acts, Vol. VII, p. 289.
"	XII	The Motor Vehicles International Circulation Act, 1912.	Ditto . . .	General Acts, Vol. VII, p. 292.
1913	II	The Official Trustees Act, 1913.	Ditto . . .	General Acts, Vol. VII, p. 297.
"	III	The Administrator-General's Act, 1913.	Ditto . . .	General Acts, Vol. VII, p. 310.
"	V	The White Phosphorus Matches Prohibition Act, 1913.	Declared in force, Reg. II of 1913, s. 3.	General Acts, Vol. VII, p. 333.
"	VII	The Indian Companies Act, 1913.	Extends *proprio vigore* . .	General Acts, Vol. VII, p. 335.

ENACTMENTS IN FORCE IN BRITISH BALUCHISTAN—*contd*

2 —LOCAL ENACTMENTS

[*See* Note to heading General Enactments in Part I]

1	2	3	4	5
Year	No	Short title or subject	How in force and whether partially repealed or otherwise affected in British Baluchistan by legislation	Where published
		A —Bengal Regulations		
1812	XI	The Bengal Foreign Immigrants Regulation, 1812	Declared in force, Reg II of 1913, s 3	*Infra*, p 1
1818	III	The Bengal State Prisoners Regulation, 1818	Declared in force, Reg II of 1913, s 3	Do, p 4
		B —Local Acts of the Governor-General in Council		
1867	III	The Public Gambling Act, 1867	Declared in force, Reg II of 1913, s 3	*Infra*, p 8
1880	XIII	The Vaccination Act, 1880	Ditto	Do, p 15
1887	XI	The Sindh-Pishin Railway Act 1887.	Ditto	Do, p 23
"	XVII	The Punjab Land Revenue Act, 1887	Declared in force with modifications in the Tahsil of Pishin Reg II of 1913, s 3	Do, p 24
1896	XII	The Excise Act, 1896	Declared in force, Reg II of 1913, s 3	Do, p 87
		C —Regulations under the Government of India Act, 1870 (33 Vict, c 3).		
1874	VII	The Punjab Frontier Jagir Revenue Collection Regulation, 1874	Declared in force with modifications, Reg II of 1913, s 3	*Infra*, p 103
1890	V	The British Baluchistan Forest Regulation, 1890	Rep in part, Reg IX of 1896 Rep in part, Reg II of 1913 Amended ss 9 10, Reg V of 1912	Do, p 104
1896	VIII	The British Baluchistan Criminal Justice Regulation, 1896		Do, p 119
"	IX	The British Baluchistan Civil Justice Regulation, 1896		Do, p 125.

ENACTMENTS IN FORCE IN BRITISH BALUCHISTAN—*concld.*

2.—LOCAL ENACTMENTS—*concld.*

1	2	3	4	5
Year.	No.	Short title or subject.	How in force and whether partially repealed or otherwise affected in British Baluchistan by legislation.	Where published.
1901	III	The Frontier Crimes Regulation, 1901.	Declared in force, with modifications, Reg. II of 1913, s. 3.	*Infra*, p. 148.
"	IV	The Frontier Murderous Outrages Regulation, 1901.	......	Do., p. 171.
1907	I	The Upper Burma and Arakan Hills Frontier Crossing and Disturbed Districts Regulation, 1907.	Declared in force, with modifications, Reg. II of 1913, s. 3.	Do., p. 176.
1910	V	The British Baluchistan Bazars Regulation, 1910.	......	Do., p. 178.
1912	V	The British Baluchistan Forest (Amendment) Regulation, 1912.	......	Do., p. 209.
1913	II	The British Baluchistan Laws Regulation, 1913.	......	Do., p. 203.

THE BALUCHISTAN CODE.

PART I.

LOCAL ENACTMENTS IN FORCE IN BRITISH BALUCHISTAN.

A.—BENGAL REGULATIONS.

BENGAL REGULATION XI OF 1812[1]

[*18th July, 1812*]

A Regulation to empower the [Local Government][2] to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts

1. WHEREAS considerable bodies of persons, being Natives of Arakan and ordinarily denominated Muggs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier, Preamb

and whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava, of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations

of amity which subsist between the British Government and the Government of Ava ;

and whereas it is, in consequence, necessary that the [1][Local Government] should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated ;

and whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William.

Power to order removal of emigrants to parts of country deemed convenient.

2. Whenever the [1][Local Government], upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the [1][Local Government] to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner it shall be competent to the [1][Local Government] to order such removal, whenever it[2] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants allowed to dispose of property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper :

Provided, however, that, if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the [1][Local Government] to order such property to be sold by public auction under the superintendence of the Collector of the district.

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[1] *See* footnote 2 on page 1 *supra*.

[2] The word "it" has been substituted for the word "he" by the Burma Laws Act, 1898 (13 of 1898), *see* the Third Schedule [Bur. Code, Ed. 1910].

In that case the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged

4. In cases in which the [1][Local Government] may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the [1][Local Government] to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time as may be deemed by the [1][Local Government] necessary for the public good

Power to order leaders or other emigrants to be apprehended and kept under restraint

5. *First* —Any persons of the above description, or their descendants, who while living under the protection of the British Government shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence * * * *,[2] and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated

Second —Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence* * * *,[2] and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years

Punishment for persons aiding or assisting in attempts to excite such disturbances

Proviso

Provided however that, if the Judge * * *[2] by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the

[1] *See* footnote 2 on page 1 *supra*

[2] The words before the Court of Circuit and the words ' of Circuit ' were repealed by the Repealing Act 1874 (16 of 1874)

of amity which subsist between the British Government and the Government of Ava ;

and whereas it is, in consequence, necessary that the [1][Local Government] should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated ;

and whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William.

Power to order removal of emigrants to parts of country deemed convenient.

2. Whenever the [1][Local Government], upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the [1][Local Government] to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner it shall be competent to the [1][Local Government] to order such removal, whenever it[2] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants allowed to dispose of property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper :

Provided, however, that, if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the [1][Local Government] to order such property to be sold by public auction under the superintendence of the Collector of the district.

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[1] *See* footnote 2 on page 1 *supra*.

[2] The word " it " has been substituted for the word " he " by the Burma Laws Act, 1898 (13 of 1898), *see* the Third Schedule [Bur. Code, Ed. 1910].

In that case the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged

4. In cases in which the [1][Local Government] may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the [1][Local Government] to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time as may be deemed by the [1][Local Government] necessary for the public good

Power to order leaders or other emigrants to be apprehended and kept under restraint

5. *First* —Any persons of the above description, or their descendants, who while living under the protection of the British Government shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence * * * *,[2] and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated

Second —Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence* * * *,[2] and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years

Punishment for persons aiding or assisting in attempts to excite such disturbances.

Proviso

Provided however that, if the Judge * * *[2] by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the

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[1] *See* footnote 2 on page 1 *supra*

[2] The words "before the Court of Circuit" and the words "of Circuit" were repealed by the Repealing Act 1874 (16 of 1874)

proceedings held on the trial [1][to the Local Government, and the Local Government shall pass such orders thereon as it may think fit]:

Provided, moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the [2][Local Government] from the exercise of the power vested in the Government by section 4 of the said Regulation.

BENGAL REGULATION III OF 1818.[3]

[*7th April, 1818.*

A Regulation for the confinement of State Prisoners.

Preamble. 1. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with Foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper;

and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

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[1] These words were substituted for the original words "to the Nizamat Adalat, who will recommend to the Governor General in Council such abbreviation of the prescribed punishment as they may judge proper," by the Repealing and Amending Act, 1897 (5 of 1897), s. 2 and Sch. II. [Genl. Acts, Vol. IV.]

[2] *See* footnote 2 on page 1, *supra.*

[3] Short title "The Bengal State Prisoners Regulation, 1818", *see* the Repealing and Amending Act, 1897 (5 of 1897). Sch. III. Genl. Acts. Vol. IV.

This Regulation has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3 (*1*) *infra*, page 209.

S. 491 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), does not apply to persons detained under this Regulation, *see* last clause of that section. [Genl. Acts, Vol. V.]

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family,

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindárs, taluqdárs and others situated within the territories dependent on the Presidency of Fort William, should be attached and placed under the temporary management of the Revenue authorities without having recourse to any judicial proceeding,

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government,

the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated

Proceeding for placing persons under restraint as State prisoners

2 *First* —When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed

Form of warrant.

Second —The warrant of commitment shall be in the following form —

"To the [1] [*here insert the officer's designation*]

"Whereas the Governor General in Council, for good and sufficient reasons has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*], you are hereby required and commanded, in pursuance of that determination, to receive the person abovenamed into your custody, and to deal with him in conformity to the orders of the Governor General in Council and the provisions of Regulation III of 1818

"Fort William the —

"By order of the Governor General in Council,

"*A B*, Chief Secy to Govt."

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[1] As to direction of warrants *see* the State Prisoners Act (4 of 185[illegible], s 1, G[illegible] A[illegible] Vol 1]

Authority of warrant.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.[1]

Officers having custody of State prisoners to submit periodical reports.

3. Every officer in whose custody any State prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

State prisoners in custody of Zila or City Magistrate by whom to be visited.

4. *First.*—When any State prisoner is in the custody of a Zila or City Magistrate, the Judges [2]* * are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

State prisoners in custody of public officer not being Zila or City Magistrate by whom to be visited.

Second.—When any State prisoner is placed in the custody of any public officer not being a Zila or City Magistrate, the Governor General in Council will instruct either the Zila or City Magistrate, or the Judge [2]* * or any other public officer, not being the person in whose custody the prisoner may be placed to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Report to Government regarding confinement, etc., of prisoners.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

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[1] For power to remove a State prisoner to any other place of confinement in British India, *see* the State Prisoners Act, 1858 (3 of 1858), s. 5. [Genl. Acts, Vol. I.]

[2] The words "of Circuit" in s. 4 were repealed by the *Repealing Act, 1874* (16 of 1874).

8. [*Application of sections 3 to 7 to persons now confined as State prisoners Rep by the Repealing Act, 1874 (XVI of 1874)*]

9 Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamíndar, jagirdár, taluqdár or other person, without any previous decision of a Court of justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated * * *[1] [and][2] to the Sadar Diwáni Adálat and Nizamat Adalat

Attachment of estates by order of Government without decision of Court

10. *First* —The land or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khás management

Management of attached estates

Second —Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realizations of fines or otherwise, during the period in which they may be so held under attachment

Attached lands not liable to sale in execution

Third —In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts

Government to arrange for satisfaction of decrees

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment

Release of estate from attachment

[1] The words ' to the Provincial Court of Appeal and Circuit, and in s 9 were repealed by the Repealing Act 1874 (16 of 1874)

[2] The word ' and ' was inserted by the Repealing and Amending Act, 1891, 2nd Sch (12 of 1891) [Genl Acts Vol IV]

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ACT No III OF 1867[1]

[*25th January, 1867*]

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the [2]North-Western Provinces of the Presidency of Fort William, and in the Punjab, [2]Oudh, [3][*and the Central Provinces*]

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the Governments of the Lieutenant-Governor of the [4]North-Western Provinces of the Presidency of Fort William, [and][5] of the Lieutenant-Governor of the Punjab, and to the administrations of the [4]Chief Commissioner of Oudh, [6][and of the Chief Commissioner of the Central Provinces]; It is hereby enacted as follows — Preamble

1 In this Act— Interpretation clause "Lieutenant-Governor" "Chief Commissioner"

"[7][Lieutenant-Governor" means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be]

"[7][Chief Commissioner" means the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be]

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1866, p 976, for Report of the Select Committee, *see ibid* 1867, Supplement, p 44, and for Proceedings in Council *see ibid*, 1866, p 662, *ibid*, 1867, pp 48 and 52

Short title, the Public Gambling Act, 1867—*see* the Repealing and Amending Act, 1897 (5 of 1897) Genl Acts, Vol IV

Act 3 of 1867 has been declared in force in—

British Baluchistan, by the British Baluchistan Laws Regulation, 1913 (2 of 1913), section 3 (*1*) *infra* p 209

[2] The North Western Provinces and the province of Oudh are now known as the United Provinces of Agra and Oudh—*see* Proclamation No 996 P dated 22nd March, 1902, *Gazette of India*, 1902, Pt I, p 228

[3] The words ' and the Central Provinces " were substituted for the words ' the Central Provinces and British Burma ' by the Repealing and Amending Act, 1903 (1 of 1903), Genl Acts, Vol V

[4] Read now the Lieutenant Governor of the United Provinces of Agra and Oudh—*see* s 2 of the United Provinces (Designation) Act 1902 (7 of 1902), Genl Acts Vol. V

[5] The word "and ' was inserted by the Repealing and Amending Act, 1891 (12 of 1891), Sch II Genl Acts, Vol IV

[6] Substituted for the words ' of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma" by the Repealing and Amending Act, 1903 (1 of 1903), s 3, Genl Acts, Vol. V

[7] Substituted for the original definition by the Repealing and Amending Act, 1903 (1 of 1903) Genl Acts, Vol V

"Common gaming-house."

"Common gaming-house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever:

Number.

Words in the singular include the plural and *vice versâ*, and

Gender.

Words denoting the masculine gender include females.

Power to extend Act.

2. [1][Sections 13 and 17] of this Act shall extend to the whole of the said territories; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend[2] by a notification to be published in three successive numbers of the official Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway-station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his government or administration, and in such notification to define for the purposes of this Act, the limits of such city, town, suburb or station-house, and from time to time, to alter the limits so defined.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories, to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

Penalty for owning or keeping, or having charge of, a gaming-house.

3. Whoever being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house; and

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house; and

whoever has the care or management of, or in any manner assists in conducting the business of, any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and

[1] These words and figures were substituted for the original words and figures "sections 13, 17 and 18" by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II, Genl. Acts, Vol. IV.

[2] Under section 2, the remaining sections of this Act have been extended to the Bazars in the Khojak Pass in British Baluchistan, with the exception of sections 6 and 9, *see Notification* No. 2569, dated 24th April 1891, *Gazette of India*, 1891, Pt. II, p. 278 and all the provisions of the Act have been extended to the local areas of the Headquarters of the Duki Tahsil and the Civil Station of Ziarat in the Thal Chotiali District, *see Gazette of India*, 1902, Pt. II, p. 585.

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description as defined in the [1]Indian Penal Code, for any term not exceeding three months [2]

XLV of 1860

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description, as defined in the [1]Indian Penal Code, for any term not exceeding one month[2],

Penalty for being found in gaming-house

XLV of 1860

and any person found in any common gaming house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming

5. If the Magistrate of a district,[3] or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such inquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house,

Power to enter and authorize Police to enter and search.

he may either himself enter, or by his warrant authorize any officer of Police, not below such rank as the Lieutenant Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer find therein, whether or not then actually gaming,

and may seize or authorize such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein,

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered

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[1] *See* s 53 of Act 45 of 1860 Genl Acts Vol I

[2] As to enhanced punishment for a second conviction of an offence under s 3 or s 4, *see* s 15 of this Act

[3] *Read* District Magistrate and Magistrate of the first class, respectively—*see* Code of Criminal Procedure 1898 (Act 5 of 1898), s 3 Genl Acts Vol V

when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place, entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer, or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Magistrate may require any person apprehended to be sworn

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such

persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorized as aforesaid

And give evidence

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code [1]

Witnesses indemnified

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who upon such examination, shall, in the opinion of the Magistrate, make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming

Act not to apply to certain games

12 Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played

Gaming and setting birds and animals to fight in public streets.

13 A Police officer may apprehend without warrant—

any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals

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[1] Genl Acts Vol I

Such persons when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month ;

Destruction of instruments of gaming found in public streets.

and such Police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed.

Offences by whom triable.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, 1882,[1] as to the amount of fine or imprisonment he may inflict. X of 1882.

Penalty for subsequent offence.

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description :

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Portion of fine may be paid to *informer.*

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Recovery and application of fines.

17. All fines imposed under this Act may be recovered in the manner prescribed by section 61 of the Code of Criminal Procedure, 1882[2], and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall, from time to time, direct. X of 1882.

18. [*Offences under this Act to be "offences" within meaning of Penal Code.*] *Rep. Act XVI of 1874, Section 1, and Schedule, Part 1.*

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[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

[2] *See* now ss 386, 387 and 389 of Act 5 of 1898, Genl. Acts, Vol. V.

THE VACCINATION ACT, 1880

ACT No XIII OF 1880

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ACT No. XIII OF 1880.[1]

[*9th July, 1880.*]

An Act to give power to prohibit inoculation and to make the vaccination of children compulsory in certain Municipalities and Cantonments.

Preamble.

WHEREAS it is expedient to give power to prohibit inoculation and make the vaccination of children compulsory in certain municipalities and cantonments; It is hereby enacted as follows:—

Short title.

Application.

1. This Act may be called "The Vaccination Act, 1880"; and it shall apply only to such municipalities and cantonments situate in the territories administered respectively by the Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmer and Coorg as it may be extended to in manner hereinafter provided.

Interpretation clause.

2. In this Act unless there is something repugnant in the subject or context,—

"Municipal Commissioners."

(1) The expression "Municipal Commissioners" means a body of Municipal Commissioners or a Municipal Committee constituted under the provisions of any enactment for the time being in force:

"parent".

(2) "parent" means the father of a legitimate child and the mother of an illegitimate child:

"guardian."

(3) "guardian" includes any person who has accepted or assumed the care or custody of any child:

"unprotected child."

(4) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation,

[1] For Statement of Objects and Reasons, *see Gazette of India*, 1880, Pt. V, p. 80; for Report of Select Committee *see ibid*, p. 205, and for Proceedings in Council, *see ibid*, 1879, Supplement, p. 1225 and *ibid*, 1880, Supplement, pp. 566, 1204.

or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination

(5) "inoculation" means any operation performed with the object of producing the disease of small pox in any person by means of variolous matter. "inoculation"

(6) "vaccination-circle" means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination "vaccination-circle"

(7) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized by the Local Government in manner hereinafter provided to perform the same operation, and includes a "Superintendent of vaccination" "vaccinator"

(8) "vaccination season" means the period from time to time fixed by the Local Government for any local area under its administration by notification in the official [1]Gazette, during which alone vaccination may be performed under this Act. "vaccination-season"

3 A majority in number of the persons present at a meeting of the Municipal Commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality, and thereupon the Local Government may, if it thinks fit, by notification published in the official[1] Gazette, declare its intention to extend this Act in the manner proposed Extension of Act to municipalities

Any inhabitant of such municipality or part thereof who objects to such extension may within six weeks from the date of such publication send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient may by like notification effect the proposed extension.

4 The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official[1] Gazette, extend this Act to the whole or any part of a military cantonment Extension to cantonments

5 The Local Government may, by notification in the official[1] Gazette, withdraw any local area in a municipality or with the previous sanction of Power to withdraw local area from operation of Act

[1] To be construed as referring to the *Gazette of India*, *see* sec 5 (2) of the British Baluchistan Laws Regulation, 1913 (2 of 1913) *infra*, p 209

the Governor General in Council any local area in a cantonment, from the operation of this Act.

Prohibition of inoculation.

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and

Inoculated persons not to enter, without certificate, local area subject to Act.

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Vaccination-circles.

Vaccinators; Superintendent of vaccination.

7. Every local area to which this Act applies shall be a vaccination-circle, or shall in manner hereinafter provided be divided into a number of such circles; one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

Private vaccinators.

8. The Local Government may by written license authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

Unprotected children to be vaccinated.

9. When any unprotected child, having attained the age of 6 months has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age, if a boy, of fourteen years, and if a girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

Vaccinator to vaccinate children, or deliver certificates of postponement.

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

Inspection after vaccination.

10. The parent or guardian of every child which has been vaccinated under section nine shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator; and

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Procedure when vaccination is successful.

11. When it is ascertained at the time of inspecting a child under section ten that the vaccination has been successful, a certificate shall be delivered by

the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so directs, cause the child to be forthwith again vaccinated and subsequently inspected, in manner hereinbefore provided

Procedure when vaccination is unsuccessful.

13. A certificate granted under section nine showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or if that period terminates after the vaccination season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator:

Procedure when child is unfit for vaccination

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section nine shall be renewed

Renewal of postponement certificates

14. If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated

Certificates of insusceptibility of successful vaccination

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act

What lymph to be used

Provided that,

1st, if animal lymph is so prescribed and the parent or guardian of any child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated, and

2nd, if in any local area in which animal lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated

16 No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act

No fee to be charged except by private vaccinator

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed

Proviso

17. The Superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether

Duties of Superintendent of vaccination

all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated; and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make inquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

Notice to parent or guardian neglecting to comply with Act.

Order by Magistrate when notice not complied with.

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the[1] Magistrate of the District, or such Magistrate as the Local Government or the Magistrate of the District may from time to time appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Procedure when order not obeyed.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and, unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section twenty-two.

Magistrates to be non-official Natives.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

Power to make rules for municipalities.

19. When this Act has been applied to any municipality or any part thereof, the Municipal Commissioners may, from time to time, make rules consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which under the law for the time being in force, the Commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality, and shall, when confirmed by the Local Government and published in the official[2] Gazette, have the force of law:

Provided that the Local Government may at any time rescind or modify any such rule.

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[1] *Read* District Magistrate, *see* the Code of Criminal Procedure (Act 5 of 1898), Genl. Acts, Vol. V.

[2] *See* footnote 1 on page 17, *supra*.

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may, from time to time, subject to the control of the Governor General in Council, make such rules. Power to make rules for cantonments

21. The rules to be made for any local area under section nineteen or twenty may, among other matters, provide for— What rules under sections 19 and 20 may provide for

(*a*) the division of such local area into circles for the performance of vaccination ;

(*b*) the appointment of a place in each vaccination circle as a public vaccine station, and the posting of some distinguishing mark in a conspicuous place near such stations ;

(*c*) the qualifications to be required of Public vaccinators and Superintendents of vaccination ;

(*d*) the authority with which their appointment, suspension and dismissal shall rest ;

(*e*) the time of attendance of public vaccinators at the vaccine stations, and their residence within the limits of the vaccination circles ;

(*f*) the distinguishing mark or badge to be worn by them ;

(*g*) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties ;

(*h*) the facilities to be afforded to people for procuring the vaccination of their children at their own houses ;

(*i*) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination ;

(*j*) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph ;

(*k*) the fee to be paid for vaccination with animal lymph under section fifteen ;

(*l*) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child ;

(*m*) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act ;

the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls : the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month ;

the result of each vaccination or its postponement, and the delivery of certificates, if any;

(n) the assistance to be given by the Municipal Commissioners and municipal servants in the preparation of these registers, and in other matters; and

(o) the preparation of vaccination-reports and returns.

Punishment of offences.

22. Whoever commits any of the undermentioned offences (that is to say) —

(a) violates the provisions of section six,

(b) neglects without just excuse to obey an order made under section eighteen,

(c) breaks any of the rules made under section nineteen or twenty, or

(d) neglects without just cause to obey an order made under section eighteen after having been previously convicted of so neglecting to obey a similar order made in respect of the same child,

shall be punished as follows (that is to say) —

in the case of the offence mentioned in clause (a), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both;

in the case of the offences mentioned in clauses (b) and (c), with fine which may extend to fifty rupees; and

in the case of the offence mentioned in clause (d), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Municipal funds to receive fines and meet expenditure.

23. The amount of all fees and fines realized, and the amount of all expenditure incurred, under this Act in any municipality shall respectively be credited to and paid from the municipal fund.

ACT No. XI OF 1887[1]

[*25th February, 1887.*]

An Act to provide for the regulation of traffic on the Sindh-Pishin Section of the North-Western Railway.

f 1879

WHEREAS it is inexpedient that the [2]Indian Railway Act, 1879, [3][should apply in its entirety to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the province of Sindh], It is hereby enacted as follows —

Title, extent and commencement

1. (*1*) This Act may be called the Sindh-Pishin Railway Act, 1887

(*2*) It shall extend to all persons for whom the Governor General in Council has power to make laws and regulations at meetings for that purpose, and

(*3*) It shall come into force at once

Definition

2 In the following sections of this Act, "railway" means that part of the Sindh-Pishin section of the North-Western Railway which, whether completed at the commencement of this Act or not, lies beyond the province of Sindh

Application of Railway Act.

of 1879

3 (*1*) Unless and until extended under this section, no portion of the [2]Indian Railway Act, 1879, shall apply to any part of the railway

(*2*) The Governor General in Council may, by notification in the *Gazette of India*, extend to the railway or any part thereof such portions of that Act as he thinks fit.

(*3*) In extending any portion of that Act to the railway or any part thereof, the Governor General in Council may ext[illegible] subject to such modifications as he thinks fit

[illegible]

4 (*1*) No person shall be entitled, as of [illegible] on the [illegible] way or to have property carried thereon

(*2*) But the carriage of passengers and [illegible] railway [illegible] permitted subject to such conditions and [illegible] the Governor General in Council may prescribe

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[1] For Statement of Objects and Reasons [illegible] Proceedings in Council, *see ibid*, Pt. VI, [illegible]

This Act has been declared [illegible] Regulation, 1913 (2 of 1913) [illegible]

[2] *See* now the Indian Railways [illegible]

[3]These words [illegible] applies to that part of the [illegible] the Province of [illegible] of 1890), [illegible]

Exemption of the Government from liability for injury or loss.

5. Where any person or property is permitted to be carried on the railway, the Government shall not be responsible for any injury which may happen to the person, or for any loss or damage which may occur in respect of the property, unless the injury happens, or the loss or damage occurs, on a part of the railway with respect to which the Governor General in Council has, by notification in the *Gazette of India*, announced that the Government accepts responsibility, to such extent as may be described in the notification for injury happening, or loss or damage occurring thereon.

THE PUNJAB LAND REVENUE ACT, 1887.

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THE SCHEDULE —ENACTMENTS REPEALED

ACT No. XVII OF 1887[1].

[23rd September, 1887.]

An Act to amend and declare the Land-revenue Law of the Punjab.

WHEREAS it is expedient to amend and declare the law in force in the Punjab with respect to the making and maintenance of records-of-rights in land, the assessment and collection of land-revenue, and other matters relating to land and the liabilities incident thereto; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Punjab Land-revenue Act, 1887.

[2] * * * * *

* * * * *

(4) *Rep. by the Repealing and Amending Act, 1891 (XII of 1891), s. 2 and Schedule.*

Repeal.

2. (1)[3] * * * * * *

(2) But all rules, appointments, assessments and transfers made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted, records-of-rights and other records framed, revised or confirmed, rights acquired, liabilities incurred, times and places appointed

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1 For Statement of Objects and Reasons, *See Gazette of India*, 1887, Pt. V, p 128; for Report of the Select Committee, *see ibid*, 1887, Pt IV, p. 119, for Proceedings in Council, *see ibid*, 1886, Supplement, p. 1015, *ibid*, 1887, Pt. VI, pp. 60 and 90.

This Act is declared to be in force in the tahsil of Pishin by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3 (*1*), Schedule I, *infra*, p. 209 subject to the modifications mentioned in that Schedule.

2 Sub-sections (*2*) and (*3*) of s. 1 are omitted as not being in force in British Baluchistan. *See* Schedule I of Regulation 2 of 1913, *infra*, p. 209.

3 Sub-sections (*1*) and (*3*) of s. 2 are omitted as not being in force in British Baluchistan. *See* Schedule I of Regulation 2 of 1913, *infra*, p. 209.

and other things done [1][prior to the extension of this Act,] shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred, appointed and done under this Act

[2](3) * * * * *

3 In this Act, unless there is something repugnant in the subject or context,— Definitions

(1) "estate" means any area—

(a) for which a separate record-of-rights has been made, or

(b) which has been separately assessed to land-revenue, or would have been so assessed if the land-revenue had not been released, compounded for or redeemed, or

(c) which the Local Government may by general rule or special order, declare to be an estate

(2) "landowner" does not include a tenant or an assignee of land revenue, but does include a person to whom a holding has been transferred, or an estate or holding has been let in farm, under this Act for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, and every other person not hereinbefore in this clause mentioned who is in possession of an estate or any share or portion thereof, or in the enjoyment of any part of the profits of an estate

(3) "holding" means a share or portion of an estate held by one landowner or jointly by two or more landowners,

(4) "rent", "tenant", "landlord" and "tenancy" have the meanings respectively assigned to those words in the Punjab Tenancy Act, 1887 [3]

(5) "pay", with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render", with their grammatical variations and cognate expressions

(6) "land revenue" includes assigned land-revenue and any sum payable in respect of land, by way of quit rent or of commutation for service, to the Government or to a person to whom the Government has assigned the right to receive the payment

(7) "arrear of land revenue" means land revenue which remains unpaid after the date on which it becomes payable

[1] These words were substituted for the words "under any of the repealed enactments" by Schedule I of Regulation 2 of 1913 *infra* p 209

[2] *See* footnote 3 on previous page

[3] Punjab and North West Code, 1903, p 231

(8) "defaulter" means a person liable for an arrear of land-revenue, and includes a person who is responsible as surety for the payment of the arrear :

(9) "rates and cesses" means rates and cesses which are primarily payable by landowners, and includes—

(a) *Rep. by the Repealing and Amending Act, 1891 (XII of 1891)*

[1] * * * *

(d) the zaildári and village-officers' cesses; and

(e) sums payable on account of village-expenses:

(10) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate, and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force :

(11) "village-officer" means a chief-headman, headman or patwári :

(12) "Revenue officer", in any provision of this Act, means a Revenue-officer having authority under this Act to discharge the functions of a Revenue-officer under that provision :

(13) "legal practitioner" means any legal practitioner within the meaning of [2] [section 12 of the [3] British Baluchistan Civil Justice Regulation, 1896] :

(14) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may by notification appoint for any local area :

(15) "notification" means a notification published by authority of the Local Government in the official Gazette :

(16) "incumbrance" means a charge upon or claim against land arising out of a private grant or contract : and

(17) "survey-mark" includes boundary-mark.

Exclusion of certain land from operation of Act.

4. (1) Except so far as may be necessary for the record, recovery and administration of village-cesses, nothing in this Act applies to land which is occupied as the site of a town or village and is not assessed to land-revenue.

(2) A Revenue-officer may define for the purposes of this Act the limits of any such land.

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[1] Clauses (b) and (c) are omitted as not being in force in British Baluchistan. *See* Schedule I of Regulation 2 of 1913, *infra*, p. 209.

[2] These words were substituted for the words "the Legal Practitioners Act, 1879, except a Mukhtar" by Schedule I of Regulation 2 of 1913, *infra*, p. 209.

[3] *Infra*, p. 125.

[1]5 The Local Government may, by order in writing and with the previous sanction of the Governor General in Council, vary the limits of the tahsil of Pishin

Power to vary the limits of the tahsil of Pishin

CHAPTER II

REVENUE OFFICERS

Classes and Powers

6 (*1*) There shall be the following classes of Revenue officers, namely —

Classes of Revenue officers

(*a*)[2] the Financial Commissioner,

(*b*)[2] the Commissioner

(*c*) the Collector

(*d*) the Assistant Collector of the first grade and

(*e*) the Assistant Collector of the second grade

(*2*) [1] [The Deputy Commissioner for Pishin shall be the Collector of the tahsil of Pishin]

(*3*) The Local Government may appoint any Assistant Commissioner, Extra Assistant Commissioner or Tahsildar to be an Assistant Collector of the first or of the second grade as it thinks fit and any Naib tahsildár to be an Assistant Collector of the second grade

(*4*) Appointments under sub section (*3*) shall be by notification and may be of a person specially by name or by virtue of his office or of more persons than one by any description sufficient for their identification

(*5*) [3] * * * * * *

7 [4] * * * * * *

8 [5] * * * * * Extra Assistant Commissioners shall be appointed and may be removed by the Local Government

Appointment of Extra Assistant Commissioners

9 The Local Government shall fix the number of Tahsildars and Naib-tahsildars to be appointed, and the[1] Financial Commissioner may make rules for their appointment and removal

Appointment of Tahsildars and Naib tahsildars

[1] Substituted by Schedule I of Regulation 2 of 1913 *infra* p 209

[2] To be construed to mean the Revenue Commissioner in Baluchistan *see* Schedule I to Regulation 2 of 1913 *infra* p 209

[3] Sub section (5) of section 6 has been omitted as not being in force in British Baluchistan *see* Schedule I of Regulation 2 of 1913 *infra* p 209

[4] Section 7 has been omitted as not being in force in British Baluchistan *see* Schedule I of Regulation 2 of 1913 *infra* p 209

[5] The words Commissioners Deputy Commissioner Assistant Commissioner and were omitted by Schedule I of Regulation 2 of 1913 *infra* p 209

Powers of Revenue-officers.

10. Except where the class of the Revenue-officer by whom any function is to be discharged is specified in this Act, the Local Government may by notification determine the functions to be discharged under this Act by any class of Revenue-officer.

Administrative Control.

Superintendence and control of Revenue-officers.

11. *(1)* The[1] Financial Commissioner shall be subject to the control of the Local Government.

(2) The general superintendence and control over all other Revenue-officers shall be vested in, and all such officers shall be subordinate to, the [1]Financial Commissioner.

(3)[2] * * * * *

(4) Subject[3] * * * to the control of the [1]Commissioner, a Collector shall control all other Revenue-officers in his district.

Power to distribute business and withdraw and transfer cases.

12. *(1)* The [1]Financial Commissioner or a [1]Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer under his control.

(2) The [1]Financial Commissioner or a [1]Commissioner or Collector may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer under his control.

(3) An order under sub-section *(1)* or sub-section *(2)* shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.

Appeal, Review and Revision.

Appeals.

13. Save as otherwise provided by this Act, an appeal shall lie from an original or appellate order of a Revenue-officer as follows, namely :—

(a) to the Collector when the order is made by an Assistant Collector of either grade ;

(b) to the [1]Commissioner when the order is made by a Collector.

(c)[4] * * * * *

Provided that—

(i) when an original order is confirmed on first appeal, a further appeal shall not lie.

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[1] *See* foot note 2 on p. 35, *supra*

[2] Sub-section (3) has been omitted as not being in force in British Baluchistan, *see* Schedule I of Regulation 2 of 1913, *infra*, p 209.

[3] The words "as aforesaid and" were omitted, *see* Schedule I of Regulation 2 of 1913, *infra*, p. 209.

[4] Clause (c) has been omitted as not being in force in British Baluchistan, *see* Schedule I of Regulation 2 of 1913, *infra*, p. 209.

(ii) when any such order is modified or reversed on appeal by the Collector, the order made by the [1]Commissioner on further appeal, if any, to him shall be final

14 Save as otherwise provided by this Act, the period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against, and shall be as follows, that is to say — Limitation for appeals

(a) when the appeal lies to the Collector—thirty days ,

(b) when the appeal lies to the [1]Commissioner—sixty days ,

(c)[2] * * * * *

15 (1) A Revenue-officer may either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order passed by himself or by any of his predecessors in office Review by Revenue officers

Provided as follows —

(a) when a [1]Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order, whether passed by himself or by any of his predecessors in office he shall first obtain the sanction of the Revenue officer to whose control he is immediately subject ,

(b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period ,

(c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order ,

(d) an order against which an appeal has been preferred shall not be reviewed

(2) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office

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[1] *See* footnote [2] on p 35 *supra*

[2] Clause (c) has been omitted as not being in force in British Baluchistan, *see* Schedule I of Regulation 2 of 1913, *infra*, p 209

(3) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

Power to call for, examine and revise proceedings of Revenue-officers

16. (1) The [1]Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer subordinate to him.

(2) A [1]Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer under his control.

(3) If in any case in which a [1]Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the [1]Financial Commissioner.

(4) The [1]Financial Commissioner may in any case called for by himself under sub-section (1) or reported to him under sub-section (3) pass such order as he thinks fit :

Provided that he shall not under this section pass an order reversing or modifying any proceeding or order of a subordinate Revenue-officer and affecting any question of right between private persons without giving those persons an opportunity of being heard.

Procedure.

Power to make rules as to procedure

17. (1) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(3) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by whom appearances and applications may be made before and to Revenue-officers.

18. (1) Appearances before a Revenue-officer, and applications to and acts to be done before him, under this Act may be made or done—

(a) by the parties themselves, or

(b) by their recognized agents or a legal practitioner :

[1]*See* footnote [2] on p. 35, *supra*.

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer

(2) For the purposes of sub-section (1), recognized agents shall be such persons as the Local Government may by notification declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue officer under this Act unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed

19. (1) A Revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue officer — Power of Revenue officer to summon persons

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer may require

20. (1) A summons issued by a Revenue officer shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him on (b) his recognized agent, or (c) an adult male member of his family usually residing with him, — Mode of service of summons

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue-officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested

(4) A summons may, if the Revenue-officer so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, XIV 1866.[1]

(5) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the Revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice, order or proclamation or copy thereof.

21. A notice, order or proclamation, or copy of any such document, issued by a Revenue-officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

22. When a proclamation relating to any land is issued by a Revenue-officer, it shall, in addition to any other mode of publication which may be prescribed in any provision of this Act, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

Supplemental Provisions.

Place of sitting.

23. (1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(2) Any other Revenue-officer may only exercise his powers under this Act within the local limits of his jurisdiction.

Holidays.

24. (1) The [2]Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers.

(2) A proceeding had before a Revenue-officer on a day specified in the list as a day to be observed by him as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

25. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the Chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

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[1]See now the Indian Post Office Act, 1898 (6 of 1898), Genl. Acts, Vol. V.

[2] *See* footnote [2] on p. 35, *supra*.

26 When a Revenue-officer of any class who has been invested under the foregoing provisions of this Act with any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer of the same or a higher class, he shall continue to exercise those powers in that other local area unless the Local Government otherwise directs or has otherwise directed

Retention of powers by Revenue officers on transfer

27 (*1*) The Local Government may by notification confer on any person—

(*a*) all or any of the powers of a [1]* * * * Collector under this Act, or

(*b*) all or any of the powers with which an Assistant Collector may be invested thereunder,

and may by notification withdraw any powers so conferred

Conferment of powers of Revenue officer

(*2*) A person on whom powers are conferred under sub-section (*1*) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes connected with the exercise thereof be deemed to be a *[2] * * * Collector or Assistant Collector, as the case may be

(*3*) If any of the powers of a Collector under this Act are conferred on an Assistant Collector, they shall unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector

CHAPTER III

KÁNÚNGOS, ZAILDÁRS, INÁMDÁRS AND VILLAGE OFFICERS

28. (*1*) The [3]Financial Commissioner may make rules to regulate the appointment, duties, emoluments, punishment, suspension and removal of kánúngos, zaildars, inámdárs and village-officers

Rules respecting kánungos, zaildars, inamdars and village officers

[4] "(*2*) When the Government undertakes to pay the zaildars and inamdárs in any district, tahsil or other local area from the land revenue realized in that local area, a rule under sub-section (*1*) may direct that from every person to whom the land-revenue of any land in that local area has been released or assigned, or who has redeemed or compounded for the same, there shall be levied as a contribution towards the payment of such zaildárs and inamdars a rate not exceeding one-and a half per cent on the

[1]The words ' Financial Commissioner Commissioner or ' were omitted by Schedule I of Regulation 2 of 1913, *infra* p 209

[2]The words ' Financial Commissioner, Commissioner ' were omitted by Schedule I of Regulation 2 of 1913, *infra* p 290

[3]*See* footnote [2] on p 35, *supra*

[4]This sub section was substituted by Act 17 of 1896 s 1

land-revenue which has been, or, but for such release, assignment, redemption or composition, would have been, assessed on such land; and, in any case in which land-revenue is collected on account of such land by any Revenue-officer for any such person, such officer may deduct that percentage from the amount payable by him to that person."

Village-officers' cess.

[1]29. (*1*) The Local Government may, by notification, impose on all or any estates in the territories for the time being administered by it a cess, to be called the village-officers' cess, at such rate or rates not exceeding [2][half anna] for every rupee of the annual value, as it may think fit, for remunerating[2] [headmen and chief headmen] in those territories and for defraying other expenditure directly connected with the supervision of those officers or with the performance of their duties.

(*2*) "Annual value" in sub-section (*1*) has the meaning assigned to that expression in the [3] Punjab District Boards Act, 1883; that is to say— XX of

(*a*) double the land-revenue for the time being assessed on any land, whether the assessment is leviable or not; or,

(*b*) where the land-revenue has been permanently assessed, or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assessment, composition or redemption, would have been leviable; or,

(*c*) where no land-revenue has been assessed, double the amount which would have been assessed if the average village-rate had been applied:

Provided that, in any tract in which, under the settlement for the time being in force, the improvement of the land due to canal-irrigation has been excluded from account in assessing the land-revenue and a rate has been imposed in respect of such improvement, that rate shall be added to the land-revenue for the purpose of computing the annual value.

(*3*) The [4]Financial Commissioner may make rules for the collection, control and expenditure of the village-officers' cess.

(*4*) All cases now levied in any local area for the purposes mentioned in sub-section (*1*) shall be deemed to have been lawfully imposed and shall, until the village-officers' cess is imposed in that local area under that sub-section, be deemed to be lawfully leviable and, for the purposes of this section, to be that cess.

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[1] This section was substituted by Act 17 of 1896, s. 2.

[2] The words "half anna" and "headmen and chief headmen" were respectively substituted for the words "one anna" and "village officers" by the Repealing and Amending (Rates and Cesses) Act, 1907 (4 of 1907.)

[3] Punjab Code.

[4] See footnote [2] on p. 35, *supra*.

30. (*1*) The emoluments of a kánúngo, zaildar or inamdar or village-officer shall not be liable to attachment in execution of a decree or order of any Civil or Revenue Court

Restriction on attachment or assignment of remuneration of kánúngos, zaildars, inámdars and village officers

(*2*) An assignment of, or charge on, or an agreement to assign or charge any such emoluments shall be void unless it is authorized by rules made by the [1]Financial Commissioner in this behalf

CHAPTER IV
RECORDS
(Records-of-Rights and Annual Records)

31 (*1*) Save as otherwise provided by this Chapter, there shall be a record-of rights for each estate

Record of rights and documents included therein

(*2*) The record-of rights for an estate shall include the following documents, namely —

(*a*) statement showing, so far as may be practicable —

(i) the persons who are landowners, tenants or assignees of land revenue in the estate or who are entitled to receive any of the rents profits or produce of the estate or to occupy land therein,

(ii) the nature and extent of the interests of those persons and the conditions and liabilities attaching thereto and

(iii) the rent, land revenue, rates cesses or other payments due from and to each of those persons and to the Government

(*b*) a statement of customs respecting rights and liabilities in the estate,

(*c*) a map of the estate, and

(*d*) such other documents as the [1]Financial Commissioner may with the previous sanction of the Local Government, prescribe

32 (*1*) When it appears to the Local Government that a record-of-rights for an estate does not exist, or that the existing record of rights for an estate requires special revision, the Local Government may by notification direct that a record of rights be made or that the record-of rights be specially revised, as the case may be

Making or special revision of record of rights

(*2*) The notification may direct that records of rights shall be made or specially revised for all or any estates in any local area

(*3*) A record-of-rights made or specially revised for an estate under this section shall be deemed to be the record-of rights for the estate, but shall not affect any presumption in favour of the Government which has already arisen from any previous record of rights

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[1]*See* footnote [2] on p 35 *supra*

Annual record.

33. (*1*) The Collector shall cause to be prepared by the patwári of each estate yearly, or at such other intervals as the [1]Financial Commissioner may prescribe, an edition of the record-of-rights amended in accordance with the provisions of this Chapter.

(*2*) This edition of the record-of-rights shall be called the annual record for the estate, and shall comprise the statements mentioned in sub-section (*2*), clause (*a*), of section 31 and such other documents, if any, as the [1]Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

(*3*) For the purposes of the preparation of the annual record, the Collector shall cause to be kept up by the patwári of each estate a register of mutations and such other registers as the [1]Financial Commissioner may prescribe.

Procedure for making Records.

Making of that part of the annual record which relates to landowners, assignees of revenue and occupancy-tenants.

34. (*1*) Any person acquiring, by inheritance, purchase, mortgage, gift or otherwise, any right in an estate as a landowner, assignee of land-revenue or tenant having a right of occupancy, shall report his acquisition of the right to the patwári of the estate.

(*2*) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwári.

(*3*) The patwári shall enter in his register of mutations every report made to him under sub-section (*1*) or sub-section (*2*), and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place, and of which a report should have been made to him under one or other of those sub-sections and has not been so made.

(*4*) A Revenue-officer shall from time to time inquire into the correctness of all entries in the register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which, under the foregoing sub-sections, report should have been made to the patwári and entry made in that register, and shall in each case make such order as he thinks fit with respect to the entry in the annual record of the right acquired.

(*5*) Such an entry shall be made by the insertion in that record of a description of the right acquired and by the omission from that record of any entry in any record previously prepared which by reason of the acquisition has ceased to be correct.

[illegible] of that part of the annual

35. The acquisition of any interest in land other than a right referred to in sub-section (*1*) of the last foregoing section shall,—

[1]*See* footnote [2] on p. 35, *supra*.

(a) if it is undisputed, be recorded by the patwari in such manner as the [1]Financial Commissioner may by rules in this behalf prescribe, and, — record which relates to other persons

(b) if it is disputed, be entered by the patwari in the register of mutations and dealt with in the manner prescribed in sub-sections (4) and (5) of the last foregoing section

Determination of dispute

36 (1) If during the making, revision or preparation of any record or in the course of any inquiry under this Chapter a dispute arises as to any matter of which an entry is to be made in a record or in a register of mutations, a Revenue-officer may of his own motion or on the application of any party interested, but subject to the provisions of the next following section, and after such inquiry as he thinks fit determine the entry to be made as to that matter

(2) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register

(3) A direction of a Revenue-officer under sub section (2) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction

Restriction on variation of entries in records

37 Entries in records of-rights or in annual records except entries made in annual records by patwáris under clause (a) of section 35 with respect to undispûted acquisitions of interests referred to in that section shall not be varied in subsequent records otherwise than by—

(a) making entries in accordance with facts proved or admitted to have occurred,

(b) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on those parties,

(c) making new maps where it is necessary to make them

Mutation fees

38 (1) The Local Government may fix a scale of fees for all or any classes of entries in any record or register under this Chapter and for copies of any such entries

(2) A fee in respect of an entry shall be payable by the person in whose favour the entry is made

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[1]*See* footnote [2] on p 35, *supra*

Penalty for neglect to report acquisition of any right referred to in section 34.

39. Any person neglecting to make the report required by section 34 within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector, to a fine not exceeding five times the amount of the fee which would have been payable according to the scale fixed under the last foregoing section if the acquisition of the right had been reported immediately after its accrual.

Obligation to furnish information necessary for the preparation of records.

40. Any person whose rights, interests or liabilities are required to be entered in any record under this Chapter shall be bound to furnish, on the requisition of any Revenue-officer or village-officer engaged in compiling the record, all information necessary for the correct compilation thereof.

Rights of the Government and presumptions with respect thereto and to other matters.

Rights of the Government in mines and minerals.

41. All mines of metal and coal, and all earth-oil and gold-washings shall be deemed to be the property of the Government, and the Government shall have all powers necessary for the proper enjoyment of its right thereto.

Presumption as to ownership of forests, quarries and waste-lands.

[1]42. * * * *

Compensation for infringement of rights of third parties in exercise of a right of the Government.

43. (*1*) Whenever, in the exercise of any right of the Government referred to in [2][section 41] in the rights of any person are infringed by the occupation or disturbance of the surface of any land, the Government shall pay or cause to be paid, to that person compensation for the infringement.

(*2*) The compensation shall be determined as nearly as may be in accordance with the provisions of the [3] Land Acquisition Act, 1870. X of 187

Presumption in favour of entries in records-of-rights and annual records.

44. An entry made in a record-of-rights in accordance with the law for the time being in force, or in an annual record in accordance with the provisions of this Chapter and the rules thereunder, shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

Suit for declaratory decree by person aggrieved by an entry in a record.

45. If any person considers himself aggrieved as to any right of which he is in possession by an entry in a record-of-rights or in an annual record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877.[4] I of 1877.

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[1] Section 42 has been omitted as not being in force in British Baluchistan. *See* Schedule I of Regulation 2 of 1913, *infra*, p. 209.

[2] Substituted for the words "either of the two last foregoing sections," by Schedule I of Regulation 2 of 1913, *infra*, p. 209.

[3] *See* now the Land Acquisition Act, 1894 (I of 1894), *see* Genl. Acts, Vol. IV.

[4] Genl. Acts, Vol. II. Only section 9 of this Act is in force in British Baluchistan.

Supplemental Provisions

Power to make rules respecting records and other matters connected therewith

46 The [1]Financial Commissioner may make rules—

(*a*) prescribing the language in which records and registers under this Chapter are to be made,

(*b*) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed and attested,

(*c*) for the survey of land so far as may be necessary for the preparation and correction of those records and registers,

(*d*) for the conduct of inquiries by Revenue-officers under this Chapter, and

(*e*) generally for the guidance of Revenue officers and village officers in matters pertaining to records and registers mentioned or referred to in this Chapter

Record of rights and annual records for groups of estates

47 (*1*) The [1]Financial Commissioner may direct that a record of rights be made for any group of neighbouring estates instead of separately for each of the estates

(*2*) The provisions of this Chapter with respect to a record-of rights and annual record for an estate shall then so far as they can be made applicable, apply to a record of-rights and annual record for a group of estates

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CHAPTER V

ASSESSMENT

Assessment of land revenue

48 (*1*) All land, to whatever purpose applied and wherever situate is liable to the payment of land revenue to the Government, except such land as has been wholly exempted from that liability by special contract with the Government or by the provisions of any law for the time being in force

(*2*) Land revenue may be assessed in cash or in kind, or partly in cash and partly in kind as the Local Government may direct

(*3*) Land may be assessed to land revenue notwithstanding that that revenue, by reason of its having been assigned, released, compounded for or redeemed is not payable to the Government

General Assessments

[illegible]

49 (*1*) A general re assessment of the land revenue of a district or tahsil shall not be undertaken without the previous sanction of the [2][Local Government] and notification of that sanction

(*2*) In granting the sanction the [2][Local Government] [illegible] such principles of assessment and give such other instructions [illegible]

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[1] *See* footnote [?] on p 3[?] *supra*

[2] Substituted for the words "Govr Genl in C[?] and" [illegible] Revenue Act 1912 (Punjab Act ? of 1912)

Mode of determining assessment.

50. (1) The assessment shall be made by a Revenue-officer.

(2) Before making it that officer shall report his proposed method of assessment for the sanction of the [1] Financial Commissioner in such form as the Financial Commissioner[1], with the previous sanction of the Local Government, may prescribe.

Announcement of assessment.

51. (1) When the Revenue-officer has obtained the sanction of the Financial Commissioner[1] to his proposed method of assessment, he shall make an order determining the assessment proper for each estate, and announce it in such manner as the Local Government may prescribe.

(2) At the time of announcing the assessment he shall also declare the date from which it is to take effect, and subject to the other provisions of this Act, it shall take effect accordingly.

Application for re-consideration of assessment.

52. (1) The landowner may, within thirty days from the date of the announcement of the assessment, present a petition to the Revenue-officer for a re-consideration of the amount, form or conditions of the assessment.

(2) Where the land-revenue is assigned, the assignee thereof may within thirty days from that date present a like petition to the Revenue-officer.

(3) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Confirmation and duration of assessment.

53. (1) An assessment of the land-revenue of a district or tahsil shall not be considered final until it has been confirmed by the Local Government.

(2) At any time before an assessment is so confirmed the [1] Commissioner or [1] Financial Commissioner may modify the assessment of any estate in the district or tahsil.

(3) The Local Government shall, when confirming an assessment under sub-section (1), fix the period for which the assessment is to be in force.

Assessment to remain in force till new assessment takes effect.

54. Notwithstanding the expiration of the period fixed for the continuance of an assessment under sub-section (3) of the last foregoing section the assessment shall remain in force till a new assessment takes effect.

Refusal to be liable for assessment and consequences thereof.

55. (1) At any time within ninety days from the date of the announcement of an assessment the landowner or, where there are more landowners than one, any of them who would be individually or collectively liable for more than half the sum assessed may give notice to the Revenue-officer of refusal to be liable for the assessment.

(2) When the Revenue-officer receives a notice under sub-section (1), the Collector may take possession of the estate and deal with it, as nearly as

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[1] *See* footnote [2] on p. 35, *supra*.

may be, as if the annulment of the assessment thereof had been ordered as a process for the recovery of an arrear of land revenue due thereon

(3) While the estate is in the possession of the Collector, the landowner or landowners shall be entitled to receive from the Government an allowance, to be fixed by the [1] Financial Commissioner, which shall not be less than five or more than ten per cent of the net income realized by the Government from the estate

Distribution of the assessment of an estate over the holdings comprised therein

56 (*1*) If the assessment announced under section 51 is in whole or in part a fixed assessment of an estate for a term of years the Revenue officer shall before the date on which the first instalment thereof becomes payable make an order distributing it over the several holdings comprised in the estate and make and publish a record of the distribution

(2) The Collector may for sufficient reason make an order revising that record at any time while the assessment continues to be in force, and publish the record so revised

(3) If the assessment announced under section 51 is in the form of rates chargeable according to the results of each year or harvest a Revenue-officer shall from year to year or from harvest to harvest as the conditions of the assessment may require make and publish, not later than one month before the first instalment of the land revenue falls due a record of the amount payable in respect of each holding

(4) The [1] Financial Commissioner may make rules for the guidance of Revenue-officers in making publishing and revising records under this section

Application for amendment of the distribution of an assessment

57 (*1*) Any person affected by a record made under sub section (*1*) or sub section (*3*) of the last foregoing section or by the revision of a record under sub section (2) of that section may, within thirty days from the date of the publication of the record present a petition to the Revenue officer for a re consideration of the record so far as it affects him

(2) The order passed by the Revenue officer on the petition shall set forth his reasons for granting or refusing it

Appeals from orders under sections 52 and 57

58 An appeal from an order under the last foregoing section or section 52 shall lie to the [1] Commissioner [2] * * * * *

Special Assessment

Special assessment.

59 Special assessments may be made by Revenue officers in the following cases, namely —

(*a*) when estates are formed under the next following section

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[1] See footnote 2 on p 35 *supra*

[2] The rest of the section from and from the appellate order to the end of the section has been omitted as not being in force in British Baluchistan *see* Schedule I of Regulation 2 of 1913 *infra* p 209

(b) when land-revenue which has been released or assigned is resumed;

(c) when waste-lands are sold, leased or granted by the Government;

(d) when the assessment of any land has been annulled or the land-owner has refused to be liable therefor, and the term for which the land was to be managed by the Collector or his agent or let in farm has expired;

(e) when assessments of land-revenue require revision in consequence of the action of water or sand or of calamity of season or from any other cause;

(f) when revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42, has not been included in an assessment made under the foregoing provisions of this Chapter.

(2) The [1]Financial Commissioner may make rules for the guidance of Revenue-officers in making special assessments, and may confirm such assessments.

(3) The foregoing provisions of this Chapter with respect to general assessments shall, subject to such modifications thereof as the [1]Financial Commissioner may prescribe by rules under the last foregoing sub-section, regulate the procedure of Revenue-officers making special assessments.

Formation of waste-land into separate estates.

60. (1) When, in the opinion of the Collector or of an officer making a general re-assessment of land-revenue under the foregoing provisions of this Chapter, the waste-land belonging to or adjoining an estate is so extensive as to exceed the requirements of the owners of the estate with reference to pasturage or other useful purpose, the Collector or officer may at any time, with the previous sanction of the [1] Financial Commissioner, make a separate assessment of the waste-land which he considers to be so in excess, and offer that land at that assessment, for such term and on such conditions as he thinks fit, to the owners of the estate to which it belongs, and, if they refuse the offer, to the owners of any estate which the land adjoins, and, if they also refuse the offer, to any other person.

(2) When the owners of the estate to which the waste-land belongs refuse the offer, the Collector shall assign to them an annual allowance not less than five and not more than ten per cent. of the net income realized by the Government from the land.

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[1] See footnote 2 on p. 35 *supra*.

CHAPTER VI

COLLECTION OF LAND REVENUE

61. (*1*) In the case of every estate, the entire estate and the landowner or, if there are more than one, the landowners jointly and severally shall be liable for the land-revenue for the time being assessed on the estate

Security for payment of land revenue

Provided that—

(*a*) the Local Government, with the previous sanction of the Governor General in Council, may by notification declare that in any estate a holding or its owner shall not be liable for any part of the land revenue for the time being assessed on the estate except that part which is payable in respect of the holding, and

(*b*) when there are superior and inferior landowners in the same estate, the [1]Financial Commissioner may by rule, or by special order in each case, determine whether the superior or inferior landowners shall be liable for the land-revenue, or whether both shall be so liable, and, if so, in what proportions

(*2*) A notification under proviso (*a*) to sub-section (*1*) may have reference to any single estate or to any class of estates or estates generally in any local area

62. (*1*) The land revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents, profits and produce thereof

Further security for payment of land revenue

(*2*) Without the previous consent of the Collector, the rents, profits or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the land-revenue chargeable against the rents, profits or produce, and any arrear of land-revenue due in respect of the estate or holding, have been paid

63. (*1*) Notwithstanding anything in any record of rights, the [1]Financial Commissioner may fix the number and amount of the instalments, and the times, places and manner, by, at and in which, land-revenue is to be paid

Orders to regulate payment of land revenue

(*2*) Until the [1]Financial Commissioner otherwise directs, land-revenue shall be payable by the instalments, at the times and places and in the manner, by, at and in which it is payable at the commencement of this Act

64. (*1*) The [1]Financial Commissioner may make rules consistent with this Act to regulate the collection, remission and suspension of land revenue, and may by those rules determine the circumstances and terms in and on which assigned land-revenue may be collected by the assignee

Rules to regulate collection, remission and suspension of land revenue

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[1] *See* footnote 2 on p 35 *supra*

(2) Where land-revenue due to an assignee is collected by a Revenue-officer, there shall be deducted from the sum collected such a percentage on account of the cost of collection as the [1]Financial Commissioner may by rule in this behalf prescribe.

(3) A suit for an arrear of assigned land-revenue shall not be entertained unless there is annexed to the plaint at the time of the presentation thereof a document under the hand of the Collector specially authorizing the institution of the suit.

Costs recoverable as part of arrear.

65. The costs of any process issued under this Chapter shall be recoverable as part of the arrear of land-revenue in respect of which the process was issued.

Certified account to be evidence as to arrear.

66. A statement of account certified by a Revenue-officer shall be conclusive proof of the existence of an arrear of land-revenue, of its amount and of the person who is the defaulter.

Processes for recovery of arrears.

67. Subject to the other provisions of this Act, an arrear of land-revenue may be recovered by any one or more of the following processes, namely:—

(*a*) by service of a writ of demand on the defaulter;

(*b*) by arrest and detention of his person;

(*c*) by distress and sale of his moveable property and uncut or ungathered crops;

(*d*) by transfer of the holding in respect of which the arrear is due;

(*e*) by attachment of the estate or holding in respect of which the arrear is due;

(*f*) by annulment of the assessment of that estate or holding;

(*g*) by sale of that state or holding;

(*h*) by proceedings against other immoveable property of the defaulter.

Writ of demand.

68. A writ of demand may be issued by a Revenue-officer on or after the day following that on which an arrear of land-revenue accrues.

Arrest and detention of defaulter.

69. (*1*) At any time after an arrear of land-revenue has accrued a Revenue-officer may issue a warrant directing an officer named therein to arrest the defaulter and bring him before the Revenue-officer.

(*2*) When the defaulter is brought before the Revenue-officer, the Revenue-officer may cause him to be taken before the Collector, or may keep him under personal restraint for a period not exceeding ten days and then, if the arrear is still unpaid, cause him to be taken before the Collector.

(*3*) When the defaulter is brought before the Collector, the Collector may issue an order to the officer in charge of the civil jail of the district,

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[1] *See* footnote 2 on p. 35 *supra.*

directing him to confine the defaulter in the jail for such period, not exceeding one month from the date of the order, as the Collector thinks fit

(*4*) The process of arrest and detention shall not be executed against a defaulter who is a female, a minor, a lunatic or an idiot

Distress and sale of moveable property and crops

70. (*1*) At any time after an arrear of land revenue has accrued, the moveable property and uncut or ungathered crops of the defaulter may be distrained and sold by order of a Revenue-officer

(*2*) The distress and sale shall be conducted, as nearly as may be, in accordance with the law for the time being in force for the attachment and sale of moveable property under the decree of a Revenue Court constituted under the Punjab Tenancy Act, 1887 [1]

1887

Provided that, in addition to the particulars exempted by that law from liability to sale, so much of the produce of the land of the defaulter as the Collector thinks necessary for seed grain and for the subsistence, until the harvest next following, of the defaulter and his family, and of any cattle exempted by that law, shall be exempted from sale under this section

Transfer of holding

71. (*1*) At any time after an arrear of land revenue has accrued on a holding, the Collector may transfer the holding to any person being a landowner of the estate in which the holding is situate and not being a defaulter in respect of his own holding on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Collector may see fit to prescribe

(*2*) The transfer may, as the Collector thinks fit, be either till the end of the agricultural year in which the defaulter pays to the transferee the amount of the arrear which the transferee paid before being put in possession of the holding, or for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer

(*3*) The Collector shall report to the [2] Financial Commissioner any transfer made by him under this section, and the [2] Financial Commissioner may set aside the transfer or alter the conditions thereof, or pass such other order as he thinks fit

(*4*) A transfer under this section shall not affect the joint and several liability of the landowners of the estate in which it is enforced

(*5*) In respect of all rights and liabilities arising under this Act the person to whom the holding is transferred shall, subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred

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[1] *See* Punjab and N W Code

[2] *See* footnote 2 on p 35 *supra*

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment

(4) At some time before the expiration of that term the Collector shall determine the assessment to be paid in respect of the estate or holding for the remainder of the term of the current assessment of the district or tahsil, and when that assessment has been sanctioned by the [1]Financial Commissioner, shall announce it to the landowner

(5) The landowner may give notice to the Collector of refusal to be liable for the assessment within thirty days from the date on which the assessment was announced to him

(6) If notice is so given the Collector may, with the previous sanction of the [1]Financial Commissioner, take the estate or holding under direct management, or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the [1]Financial Commissioner may fix

(7) When the assessment of a holding is annulled, the joint responsibility of the other landowners of the estate for the land revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect

(8) The [1] Financial Commissioner may direct that any contract made by the defaulter or by any person through whom the defaulter claims, with respect to any land comprised in an estate or holding of which the assessment has been annulled shall not be binding on the Collector or his agent or farmer during the period for which the estate or holding remains under the management of the Collector or his agent or is let in farm

Proclamation of attachment or annulment of assessment and consequences of the proclamation

74 (1) When any land is attached under section 72, or when the assessment of any land has been annulled under the last foregoing section the Collector shall make proclamation thereof

(2) No payment made by any person to the defaulter before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Collector, be credited to that person or relieve him from liability to make the payment to the Collector or his agent or farmer

(3) No payment made after the making of the proclamation on account of rent or any other asset of the estate or holding to any person other

[1] *See* footnote 2 on p 35 *supra*.

property, proceed under the provisions of this Act against that property as if it were the land in respect of which the arrear is due

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against

(2) When the Collector determines to proceed under this section against immoveable property other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property

(3) The Collector may at any time by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear

(4) Any private alienation of the property, or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void

(5) In proceeding against property under this section the Collector shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land revenue is due

78. (1) Notwithstanding anything in section 66, when proceedings are taken under this Act for the recovery of an arrear, the person against whom the proceedings are taken may, if he denies his liability for the arrear or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit in a Civil Court for the recovery of the amount so paid

Remedies open to person denying his liability for an arrear

(2) A suit under sub section (1) must be instituted in a Court having jurisdiction in the place where the office of the Collector of the district in which the arrear or some part thereof accrued is situate

Procedure in Sales

79. (1) On the receipt of the sanction of the [1]Financial Commissioner to the sale of any immoveable property, the Collector shall issue a proclamation of the intended sale, specifying—

Proclamation of sale

(a) the date, time and place of the sale ,

(b) the property to be sold, and, if it is an estate or holding, the land-revenue assessed thereon or payable in respect thereof ;

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[1] See footnote 2 on p 35 *supra*

(c) if the property is to be sold for the recovery of an arrear due in respect thereof, the incumbrances, grants, contracts and rights of occupancy, if any, specially saved by order of the [1]Financial Commissioner under section 76, sub-section (2), clause (c);

(d) if the property is to be sold otherwise than for the recovery of an arrear due in respect thereof, any incumbrance, grant or contract to which the property is known to be liable; and

(e) the amount for the recovery of which the sale is ordered.

(2) [2] * * * *

(3) The place of sale specified under clause (a) of sub-section (1) must be either the office of the Collector or some place appointed by the Collector in this behalf and situate in or near the property to be sold.

Indemnity to Revenue-officer with respect to contents of proclamation.

80. A Revenue-officer shall not be answerable for any error, mis-statement or omission in any proclamation under the last foregoing section, unless the same has been committed or made dishonestly.

Publication of proclamation.

81. (1) A copy of the proclamation shall be served on the defaulter and be posted in a conspicuous part of the office of the Tahsildár of the tahsil in which the property to be sold is situate.

(2) After a copy of the proclamation has been served on the defaulter and posted in the office of the Tahsildár, a copy thereof shall be posted in the office of the Collector.

(3) The proclamation shall be further published in manner prescribed in section 22 and in such other manner as the Collector thinks expedient.

Time and conduct of sale.

82. (1) The sale shall not take place on a Sunday or other holiday, or till after the expiration of at least thirty days from the date on which the copy of the proclamation was posted in the office of the Collector.

(2) The sale shall be by public auction, and shall be conducted either by the Collector in person or by a Revenue-officer specially appointed by him in this behalf.

Power to postpone sale.

83. The Collector may from time to time postpone the sale.

Stay of sale.

84. If at any time before the bidding at the auction is completed the defaulter pays the arrear in respect of which the property has been proclaimed for sale, together with the costs incurred for the recovery thereof, to the officer conducting the sale, or proves to the satisfaction of that officer that he has already paid the same either at the place and in the manner prescribed under section 63 or into the Government treasury, the sale shall be stayed.

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[1] *See* footnote 2 on p. 35 *supra*.

[2] Rep. Punjab Pre-emption Act, 1905 (2 of 1905) and by N.-W. F. P. Pre-emption Reg. 1906 (2 of 1906).

85. When the highest bid at the auction has been ascertained, the person who made that bid shall, on the requisition of the officer conducting the sale, pay to that officer a deposit of twenty five per centum on the amount of his bid, and shall, on payment thereof, be declared to be the purchaser subject to the provisions of this Chapter with respect to the exercise of any right of pre-emption. Payment of deposit by highest bidder

86. If the person who made the highest bid fails to pay the deposit as required by the last foregoing section, the property shall forthwith be put up again and sold, and all expenses attending the first sale, and the deficiency of price, if any which may happen on the re-sale, may be recovered from him by the Collector as if the same were an arrear of land revenue. Consequences of failure to pay deposit.

87. [*Exercise of right of pre-emption*] *Rep Punjab Act 2 of 1905 and Reg 2 of 1906*

88. The full amount of the purchase money shall be paid by the purchaser before the close of the fifteenth day from that on which the purchase was declared. Time for payment in full

89. In default of payment of the full amount of the purchase money within the period mentioned in the last foregoing section, the deposit referred to in section 85 or section 87, as the case may be, shall, after defraying the expenses of the sale, be forfeited to the Government and may, if the Collector with the previous sanction of the [1]Commissioner, so directs, be applied in reduction of the arrear, and the property shall be re sold, and the defaulting purchaser shall have no claim to the property or to any part of the sum for which it may subsequently be sold. Procedure in default of payment

90 Every sale of immoveable property under this Chapter shall be reported by the Collector to the [1]Commissioner. Report of sale to Commissioner

91. (*1*) At any time within thirty days from the date of the sale, application may be made to the Commissioner[1] to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it, Application to set aside sale

(2) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the [1]Commissioner that he has sustained substantial injury by reason of the irregularity or mistake

92. (*1*) After the expiration of thirty days from the date of the sale, if [illegible] such application as is mentioned in the last foregoing section has not been made, [illegible] or if such application has been made and rejected, the [1]Commissioner shall [illegible] make an order confirming the sale, and, if such application has been made and allowed, the [1]Commissioner shall make an order setting aside the sale

[1] *See* footnote 2 on p. 35 *supra*.

(2) An order made under this section shall be final.

Refund of purchase-money on setting aside of sale.

93. Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase-money.

Proclamation after postponement or on re-sale.

94. A sale made after a postponement under section 83, and re-sale consequent on a purchaser's default under section 89 or on the setting aside of a sale under section 92, shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale.

On confirmation of sale, possession and certificate to be granted to purchaser.

95. (*1*) After a sale has been confirmed in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

(*2*) The certificate shall state whether or not the property was sold for the recovery of an arrear due in respect thereof, and, if it was so sold, shall set forth the incumbrances, grants, contracts and rights of occupancy, if any, specified in the proclamation of the sale as specially saved by order of the [1]Financial Commissioner under section 76, sub-section (*2*), clause (*c*).

(*3*) The certificate shall be deemed to be a valid transfer of the property, but need not be registered as a conveyance.

(*4*) Any suit brought in any Court against the certified purchaser on the ground that the purchase was made on behalf of a person other than the certified purchaser shall be dismissed with costs.

(*5*) The certified purchaser of any immoveable property shall be entitled to all rents and profits falling due in respect of the property after the date of the confirmation of the sale and be liable for all instalments of land-revenue and rates and cesses falling due in respect thereof after that date.

Proceeds of sale.

96. (*1*) When a sale of immoveable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears, including costs incurred for the recovery thereof, due to the Government from the defaulter at the date of the confirmation of the sale, whether the arrears are of land-revenue, or of sums recoverable as arrears of land-revenue and the surplus, if any, shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one person, then to the owners either collectively or according to the amount of their recorded interests, as the Collector thinks fit.

(*2*) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

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[1] *See footnote 2 on p. 35 supra.*

(3) If the proceeds of the sale fall short of such arrears as are referred to in sub-section (1), the balance remaining due from the defaulter may be recovered from him by further proceedings under this Chapter or by any other means authorized by law

CHAPTER VII

RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS

97. When a village officer required by rules under section 28 to collect any land revenue or sum recoverable as an arrear of land-revenue satisfies a Revenue-officer that the revenue or sum has fallen due and has not been paid to him, the Revenue-officer may, subject to any rules which the [1]Financial Commissioner may make in this behalf, recover it as if it were an arrear of land-revenue *Recovery of certain arrears through Revenue officer instead of by suit.*

98. In addition to any sums recoverable as arrears of land revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely — *Other sums recoverable as arrears of land revenue*

(a) fees, fines, costs and other charges, including the village officers' cess, payable under this Act,

(b) revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42 in cases in which the revenue so due has not been included in the assessment of an estate,

[2](c) * * * * * * *

(d) sums leviable by or under the authority of the Government as water-rates, or on account of the maintenance or management of canals, embankments or other irrigation-works, not being sums recoverable as arrears of land revenue under any enactment for the time being in force, and

(e) sums payable to the Government by a person who is surety for the payment of any of the foregoing sums or of any other sum recoverable as an arrear of land-revenue

99. (1) The provisions of Chapter VI shall, with respect to any sum mentioned or referred to in this Chapter, apply, so far as they can be made applicable as if the sum were an arrear of land-revenue and the person from *Application of Chapter VI to sums recoverable under this Chapter*

[1] See footnote 3 on p 35 *supra*

[2] Clause (c) has been omitted as not being in force in British Baluchistan *see* Schedule I of Regulation 2 of 1913 *infra* p 209

whom, either as principal or as surety, it is due were a defaulter in respect of such an arrear.

(2) Unless any such sum is declared by any enactment for the time being in force to be recoverable as if it were an arrear of land-revenue due in respect of the land charged therewith, the provisions of section 77 shall apply under sub-section (*1*) to the recovery thereof.

CHAPTER VIII.

Surveys and Boundaries.

Power of Financial Commissioner to make rules for demarcation of boundaries and erection of survey-marks.

100. (*1*) The [1]Financial Commissioner may make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated and as to the survey-marks to be erected within those estates.

(2) Rules under this section may prescribe, among other matters, the form of survey-marks and the material to be used in their construction.

Power of Revenue-officers to define boundaries.

101. (*1*) A Revenue-officer may, for the purpose of framing any record or making any assessment under this Act, or on the application of any person interested, define the limits of any estate, or of any holding, field or other portion of an estate, and may, for the purpose of indicating those limits, require survey-marks to be erected or repaired.

(2) In defining the limits of any land under sub-section (*1*), the Revenue-officer may cause survey-marks to be erected on any boundary already determined by, or by order of, any Court, Revenue-officer or Forest-settlement-officer, or restore any survey-mark already set up by, or by order of, any Court or any such officer.

Power to fix boundary between riverain estates.

[2]**101-A.** (*1*) When any two or more estates are subject to river action and the limits of any such estates are, by any law, custom, decree or order applicable thereto, liable to vary according as variations may from time to time occur in the course or action of such river, the Local Government may, in its discretion, order a permanent boundary line to be fixed between any such estates or such portions thereof as are liable to river action.

(2) Upon an order being made under sub-section (*1*), the Collector shall fix a boundary line between such estates or portions of such estates

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[1] *See* footnote 2 on p. 35 *supra*.

[2] Sections 101A—101F were added by the Riverain Boundaries Act, 1899 (Punjab Act 1 of 1899), s. 2, Punjab Code.

accordingly, and shall demarcate the same, in accordance with the rules (if any) made under section 100 and the provisions of section 101

(3) Every such boundary line shall be fixed with due regard to the history of the estates and the interests of the persons respectively owning them or possessing rights therein, in such manner as may be just and equitable in the circumstances of each case

(4) No such boundary line shall be deemed to have been permanently fixed until it has been approved by the [1]Financial Commissioner

Effect of fixing a boundary between rivera n estates

[2]**101-B** (*1*) Every boundary line fixed in accordance with provisions of section 101-A, shall, notwithstanding any law or custom, or any decree or order of any Court of law, to the contrary, be the fixed and constant boundary between the estates affected thereby, and the proprietary and all other rights in every holding, field or other portion of an estate situate on each side of the boundary line so fixed, shall subject to the following proviso, vest in the landowners of the estate which lies on that side of the boundary line on which such holding, field or other portion of an estate is situate

Proviso

Provided that, if, by the operation of this section, the proprietary or any other rights in any land which at the time a boundary line is fixed is under cultivation or reasonably fit for cultivation or yields any produce of substantial value, would be transferred from the landowners and other right holders of any one estate to the landowners of any other estate, the Collector shall by written order, direct that the rights in such land shall subject to the provisions of section 101-C and section 101-D, not be so transferred unless and until the land, in respect of which any such order is made ceases to be reasonably fit for cultivation, or to yield any produce of substantial value, and upon any such order being made the transfer of the rights in such land shall be suspended accordingly

Provided further that when any portion of the land specified in any such order ceases to be reasonably fit for cultivation or to yield any produce of substantial value, the order shall, when the Collector, in writing, so directs, cease to operate as to that portion

(2) The decision of the Collector as to whether, for the purposes of the proviso to sub section (*1*) of this section, any land is or is not reasonably fit for cultivation, or does or does not yield any produce of substantial value, shall be final

[1] *See* footnote 2 on p 35 *supra*
[2] *See* footnote 2 on p 62 *supra*

Application for immediate transfer of rights reserved under the proviso to sub-section (1) of section 101-B, upon payment of compensation, and procedure thereupon. Award of compensation and extinguishment of rights thereby.

[1]101-C. (1) When any order has been made under the proviso to sub-section (1) of section 101-B, the landowners (or any of them) in whom, but for such order, the rights in the land specified therein, would vest, may apply, in writing, to the Collector to forthwith transfer the rights, the transfer of which has been suspended by such order, upon payment of compensation for the same.

(2) When an application under sub-section (1) is made, the Collector shall—

(a) fix a day for the hearing of the application;

(b) cause notice of the application, and of the day fixed for the hearing thereof, to be served on, or proclaimed for the information of all persons recorded as having rights in the land specified in the order made under the proviso to sub-section (1) of section 101-B, and all other persons interested or claiming to be interested therein;

(c) upon the day so fixed for hearing, or any day to which the hearing may be adjourned, inquire into the rights in the land and award compensation in respect of all rights found established therein to the persons severally entitled thereto;

(d) inform the applicant of the aggregate amount of compensation so awarded and require him to deposit the amount with the Collector on or before a day to be fixed by him in that behalf:

Provided that, notwithstanding anything in this sub-section contained, it shall be lawful for the Collector, in his discretion, and at any time before an award of compensation thereon has been made, to reject any application made under sub-section (1).

(3) In awarding compensation under sub-section (2), the Collector shall be guided by the provisions of section 23 and section 24 of the [2]Land Acquisition Act, 1894, so far as the same may be applicable to the circumstances of the case. 1 of 18[94]

(4) Upon the fifteenth day of May next after the whole amount of compensation so awarded has been deposited with the Collector, the order made under the proviso to sub-section (1) of section 101-B shall cease to operate, and the rights specified therein shall be transferred and vest in the manner prescribed in sub-section (1) of section 101-B, notwithstanding anything in the proviso thereof contained, and the Collector shall proceed to tender the

[1] See footnote 2 on p. 62 supra.
[2] See Genl. Acts, Vol. IV.

compensation to the persons severally entitled to receive the same under his award If any such person shall refuse to accept the sum so awarded and tendered to him, it shall be placed to his credit in the public treasury

(5) When any order made under the proviso to sub-section (*1*) of section 101-B, shall, under the provisions of sub section (*4*) of this section, cease to operate and determine, all rights reserved to any person by such order, shall be extinguished

Order under the proviso to sub section (*1*) of section 101 B to cease to apply to rights voluntarily transferred to a landowner of the estate to which the land is transferred by fixing boundary

[1]**101-D** When any person possessing any rights in any land, in regard to the rights in which an order has been made under the proviso to sub section (*1*) of section 101-B, voluntarily transfers such rights to any landowner of the estate, in the landowners of which, but for such order, such rights would vest under the operation of sub section (*1*) of section 101-B, the rights so transferred shall forthwith cease to be subject to such order

Rights transferred to be liable to all the incidence of tenure of the estate to which the transfer is made

[1]**101-E** In every case in which, by the operation of section 101-B or section 101 C or section 101-D, proprietary or other rights in land are transferred from the landowners and other right-holders of any one estate to the landowners of any other estate, such rights shall be subject to all the incidence of tenure and liabilities which, under any law or custom for the time being in force, apply to the rights of the landowners of the estate to which such rights are so transferred

Meaning of the expression Collector in sections 101 A 101 B and 101 C

[1]**101-F** For the purposes of sections 101-A, 101 B and 101-C, respectively, the expression "Collector" shall be deemed to include any Revenue-officer appointed by the Local Government to perform all or any of the functions of a Collector under any of the provisions thereof

Cost of erection and repair of survey marks

102. Subject to any rules which the [2]Financial Commissioner may make in this behalf, survey marks shall be erected and kept in repair by or at the cost of the persons interested in the land for the indication of the limits of which they are required

Provided that the Local Government may in any case direct that the cost of erection shall be borne by the Government, or be paid out of the proceeds of the village-officers' cess

Recovery of cost incurred by the Government

103 (*1*) If the persons interested in the land fail to erect or repair a survey-mark within thirty days from the date of their being required by

[1]*See* footnote 2 on p 62 *supra*
[2]*See* footnote 2 on p 33 *supra*

a Revenue-officer to do so, the Revenue-officer may cause it to be erected or repaired.

(2) Where the Revenue-officer causes a survey-mark to be erected or repaired, he shall, subject to any rules or direction under the last foregoing section, apportion the cost among the persons interested in the land in such manner as he deems just, and certify the same to the Collector.

(3) The Collector may recover the cost as if it were an arrear of land-revenue.

Power of Revenue-officers to enter on land for purposes of survey and demarcation.

104. Any Revenue-officer, and any person acting under the orders of a Revenue-officer, may, in the discharge of any duty under this Act, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

Surveys for purposes of preparation of records.

105. (*1*) When any land is being surveyed in pursuance of rules under section 46, clause (*c*), any Revenue-officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits of those rights or interests.

(*2*) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine, which may extend to ten rupees.

Provision of flagholders and chainmen for those surveys.

106. (*1*) For the purposes of the survey of any land in pursuance of rules under section 46, clause (*c*), the landowners shall be bound to provide fit persons to act as flagholders and chainmen.

(*2*) If the landowners fail to provide such persons or to provide them in sufficient number, such other persons as a Revenue-officer considers necessary may be employed, and the cost of employing them recovered from the land-owners as if it were an arrear of land-revenue.

Professional surveys.

107. (*1*) If it is necessary to make a survey by other agency than that of Revenue-officers or village-officers, the Local Government may publish a notification stating—

(*a*) the local area to be surveyed and the nature of the survey;

(*b*) the names or official designations of the officers by whom the survey is to be made; and

(*c*) the kind of survey-marks to be erected by those officers.

(2) From the date of the notification the officer specified therein, and the persons acting under their orders, shall have for the purposes of the survey the powers conferred on Revenue-officers by section 104.

108 (*1*) If any person wilfully destroys or injures or without lawful authority removes a survey mark lawfully erected, he may be ordered by a Revenue-officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured or removed as may in the opinion of the Revenue officer be necessary to defray the expense of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal — Penalty for destruction injury or removal of survey marks

(*2*) The imposition of a fine under this section shall not bar a prosecution under section 434 of the [1]Indian Penal Code

109 Every village-officer of an estate shall be legally bound to furnish a Revenue officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate — Report of destruction or removal of or injury to survey marks

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CHAPTER IX

PARTITION

110 (*1*) A partition of land, either under this Chapter or otherwise, shall not, without the express consent of the [2]Financial Commissioner, affect the joint liability of the land or of the landowners thereof for the revenue payable in respect of the land, or operate to create a new estate, and if any conditions are attached to that consent, those conditions shall be binding on the parties to the partition — Effect of partitions of estates and tenancies on joint liability for revenue and rent

(*2*) A partition of a tenancy shall not, without the express consent of the landlord, affect the joint liability of the co sharers therein for the payment of the rent thereof

111. Any joint owner of land, or any joint tenant of a tenancy in which a right of occupancy subsists, may apply to a Revenue-officer for partition of his share in the land or tenancy, as the case may be, if— — Application for partition

(*a*) at the date of the application the share is recorded under Chapter IV as belonging to him, or

(*b*) his right to the share has been established by a decree which is still subsisting at that date, or

(*c*) a written acknowledgment of that right has been executed by all persons interested in the admission or denial thereof

112 Notwithstanding anything in the last foregoing section—

(1) places of worship and burial grounds held in common before partition shall continue to be so held after partition, unless — Restrictions and limitations on partition

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[1]Genl Acts Vol 1
[2]*See* footnote 2 on p 35 *supra*

the parties otherwise agree among themselves and record their agreement and file it with the Revenue-officer;

(2) partition of any of the following properties, namely:—

(a) any embankment, watercourse, well or tank, and any land on which the supply of water to any such work may depend,

(b) any grazing-ground, and

(c) any land which is occupied as the site of a town or village and is assessed to land-revenue,

may be refused if in the opinion of the Revenue-officer the partition of such property is likely to cause inconvenience to the cosharers or other persons directly or indirectly interested therein or to diminish the utility thereof to those persons;

(3) the fact that a partition on the application of a joint owner of land would render necessary the severance into two or more parts of the land comprised in the tenancy of a tenant having a right of occupancy may, unless the tenant assents to the severance, be a sufficient reason for the disallowance of the partition in so far as it would affect that tenancy; and

(4) the fact that the landlord objects to the partition of a tenancy may be sufficient reason for the absolute disallowance of the partition thereof.

Notice of application for partition.

113. The Revenue-officer, on receiving the application under section 111, shall, if it is in order and not open to objection on the face of it, fix a day for the hearing thereof, and—

(a) cause notice of the application and of the day so fixed to be served on such of the recorded co-sharers as have not joined in the application, and if the share of which partition is applied for is a share in a tenancy, on the landlord also; and

(b) if he thinks fit, cause the notice to be served on, or proclaimed for the information of, any other persons whom he may deem to be directly or indirectly interested in the application.

Addition of parties to application.

114. On the day fixed for the hearing, or on any day to which the hearing may be adjourned, the Revenue-officer shall ascertain whether any of the other co-sharers desire the partition of their shares also, and, if any of them so desire, he shall add them as applicants for partition.

Absolute disallowance of partition.

115. After examining such of the co-sharers and other persons as may be present on that day, the Revenue-officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal.

116. If the Revenue-officer does not refuse the application under the last foregoing section, he shall ascertain the questions, if any, in dispute between any of the persons interested, distinguishing between— Procedure on admission of application

(*a*) questions as to title in the property of which partition is sought, and

(*b*) questions as to the property to be divided, or the mode of making the partition

117. (*1*) When there is a question as to title in any of the property of which partition is sought, the Revenue officer may decline to grant the application for partition until the question has been determined by a competent Court, or he may himself proceed to determine the question as though he were such a Court Disposal of questions as to title in property to be divided

(*2*) Where the Revenue-officer himself proceeds to determine the question the following rules shall apply, namely —

(*a*) If the question is one over which a Revenue Court has jurisdiction, the Revenue officer shall proceed as a Revenue Court under the
1887 provisions of the Punjab Tenancy Act, 1887 [1]

(*b*) If the question is one over which a Civil Court has jurisdiction, the procedure of the Revenue-officer shall be that applicable to the trial of an original suit by a Civil Court, and he shall record a judgment and decree containing the particulars required by the
1882 Code of Civil Procedure [2] to be specified therein

(*c*) An appeal shall lie from the decree of the Revenue-officer under clause (*b*) as though that decree were a decree of a District Judge in an original suit

(*d*) Upon such an appeal being made, the [3] [Court of the Judicial Commissioner] may issue an injunction to the Revenue-officer requiring him to stay proceedings pending the disposal of the appeal

(*e*) [4] * * * * * *

118. (*1*) When there is a question as to the property to be divided, or the mode of making a partition, the Revenue officer shall, after such inquiry as he deems necessary, record an order stating his decision on the question and his reasons for the decision Disposal of other questions

(*2*) An appeal may be preferred [5] * * * from an order under sub-section (*1*) within fifteen days from the date thereof, and, when such an

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[1] [illegible]
[2] [illegible]
[3] [illegible] ay b[illegible] by
[illegible] Law, see Schedule I of
[illegible] the Decentralization [illegible]
1914 (4 of 1914)

appeal is preferred and the institution thereof has been certified to the Revenue-officer by the [1] [authority to whom the appeal has been preferred] the Revenue-officer shall stay proceedings pending the disposal of the appeal.

(3) If an applicant for partition is dissatisfied with an original or appellate order under this section, and applies for permission to withdraw from the proceedings in so far as they relate to the partition of his shares, he shall be permitted to withdraw therefrom on such terms as the Revenue-officer thinks fit.

(4) When an applicant withdraws under the last foregoing sub-section, the Revenue-officer may, where the other applicants, if any, desire the continuance of the proceedings, continue them in so far as they relate to the partition of the shares of those other applicants.

Administration of property excluded from partition.

119. When any such property as is referred to in section 112, clause (2), is excluded from partition, the Revenue-officer may determine the extent and manner to and in which the co-sharers and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon and profits derived therefrom, respectively, are to be borne by and divided among those persons or any of them.

Distribution of revenue and rent after partition.

120. (1) The amount of revenue to be paid in respect of each of the holdings into which land has been divided on a partition, and the amount of rent to be paid in respect of each of the portions into which a tenancy has been so divided, shall be determined by the Revenue-officer making the partition.

(2) The determination of the Revenue-officer as to the revenue to be paid in respect of each holding shall, where the estate in which the holding is situate is subject to a fixed assessment, be deemed to be an order under section 56, sub-section (1).

(3) Where new estates have been created at a partition and the land-revenue has been fraudulently or erroneously distributed among them, the Local Government may, within twelve years from the time of discovery of the fraud or error, order a new distribution of the land-revenue among the several estates, on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Instrument of partition.

121. When a partition is completed, the Revenue-officer shall cause an instrument of partition to be prepared, and the date on which the partition is to take effect to be recorded therein.

Delivery of possession of property allotted on partition.

122. An owner or tenant to whom any land or portion of a tenancy, as the case may be, is allotted in proceedings for partition shall be entitled to

[1] Substituted for the word "Comsr." by Sch. Pt. I of the Decentralization Act, 1914 (4 of 1914).

possession thereof as against the other parties to the proceedings and their legal representatives, and a Revenue-officer shall, on application made to him for the purpose by any such owner or tenant at any time within three years from the date recorded in the instrument of partition under the last foregoing section, give effect to that instrument so far as it concerns the applicant as if it were a decree for immoveable property

123 (*1*) In any case in which a partition has been made without the intervention of a Revenue-officer, any party thereto may apply to a Revenue-officer for an order affirming the partition — Affirmation of partitions privately effected

(2) On receiving the application, the Revenue-officer shall inquire into the case, and, if he finds that the partition has in fact been made, he may make an order affirming it and proceed under sections 119, 120, 121 and 122, or any of those sections, as circumstances may require, in the same manner as if the partition had been made on an application to himself under this Chapter

124. The [1] Financial Commissioner may make rules for determining the costs of partitions under this Chapter and the mode in which such costs are to be apportioned — Power to make rules as to costs of partitions

125. When by established custom any land in an estate is subject to periodical re distribution, a Revenue-officer may, on the application of any of the landowners, enforce the re-distribution according to the custom, and for this purpose may exercise all or any of the powers of a Revenue-officer in proceedings for partition — Re distribution of land according to custom

126. The Revenue-officer by whom proceedings may be taken under this Chapter shall be a Revenue-officer of a class not below that of Assistant Collector of the first grade — Revenue officers empowered to act under this Chapter

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CHAPTER X

ARBITRATION

127. (*1*) Any Revenue-officer may, with the consent of the parties, refer to arbitration any dispute arising before him in any matter under this Act — Power to refer to arbitration

(2) A Collector or any Assistant Collector of the first grade may, without the consent of the parties, refer to arbitration any dispute before him with respect to—

(*a*) any matter of which an entry is to be made in any record or register under Chapter IV,

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[1] *See* footnote 2 on page 35 *supra*

(*b*) any matter relating to the distribution of an assessment under section 56;

(*c*) the limits of any estate or of any holding, field or other portion of an estate; or

(*d*) the property to be divided at a partition or the mode of making a partition.

Order of reference and contents thereof.

128. (*1*) In referring a dispute to arbitration a Revenue-officer shall make an order of reference, and specify therein the precise matter submitted to arbitration, the number of arbitrators which each party to the dispute is to nominate, the period within which arbitrators are to be nominated, and the period within which the award is to be delivered.

(*2*) The number of arbitrators which each party may nominate must be the same and must not exceed two.

(*3*) If from any cause arbitrators are not nominated, or an award is not delivered, within the period fixed therefor in the order of reference, the Revenue-officer may from time to time enlarge that period, or may cancel the order of reference.

Nomination of arbitrators.

129. (*1*) When an order of reference has been made, the parties may each nominate the number of arbitrators specified in the order, and the Revenue-officer shall nominate one other arbitrator.

(*2*) The Revenue-officer may, for reasons to be recorded by him, make an order disallowing any nomination made by either party and requiring the party to make another nomination within a time to be specified in the order.

(*3*) An order under the last foregoing sub-section shall be final.

Substitution of arbitrators by parties.

130. If an arbitrator nominated by a party dies, desires to be discharged or refuses or becomes incapable to act, the party may nominate another person in his stead.

Nomination and substitution of arbitrators by Revenue-officers.

131. In any of the following cases, namely :—

(*a*) if either of the parties fails to nominate an arbitrator under sub-section (*1*) of section 129 within the period fixed in the order of reference, or

(*b*) if the nomination of an arbitrator has been disallowed under sub-section (*2*) of section 129, and another arbitrator is not nominated within the time specified in the order under that sub-section or, having been so nominated, his nomination is also disallowed, or

(*c*) if a party entitled to nominate an arbitrator in the place of another arbitrator under section 130 fails to nominate him within

one week from the date of the communication to him of a notice requiring him to make the nomination, or

(*d*) if an arbitrator nominated by the Revenue-officer dies, desires to be discharged or refuses or becomes incapable to act,

the Revenue-officer may nominate a person as arbitrator

132. (*1*) The Revenue-officer shall, on the application of the arbitrators, issue the same processes to the parties and witnesses whom the arbitrators desire to examine as he may issue in any proceeding under this Act before himself — Process for appearance before arbitrators

(*2*) Any such party or witness shall be bound to appear before the arbitrators in obedience to a process issued under sub-section (*1*), either in person or by agent, as the arbitrators may require

(*3*) The person attending in obedience to the process shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as may be specified in the process

133. (*1*) The arbitrators shall make an award in writing under their hands concerning the matters referred to them for arbitration, and state therein their reasons therefor, and any arbitrator dissenting from the award made by a majority of the arbitrators shall state the grounds of his dissent — Award of arbitrators and presentation thereof

(*2*) The arbitrators shall present the award to the Revenue-officer in person unless that officer permits them to present it by agent.

134. (*1*) When the award has been received, the Revenue-officer shall, if the parties are present, consider forthwith any objections which they may have to make thereto, and, if they are not present, fix a date for the consideration thereof — Procedure on presentation of award

(*2*) Where a date has been fixed for the consideration of an award, the Revenue-officer shall on that date, or on any subsequent date to which an adjournment may be made, hear any objections which the parties may have to make to the award

(*3*) The Revenue-officer may also, if he thinks fit, question the arbitrators as to the grounds of their award

135 (*1*) The Revenue-officer may accept, modify or reject the award, recording his reasons for doing so in his decision respecting the dispute which was referred to arbitration — Effect of award

(*2*) An appeal shall lie from the decision as if arbitrators had not been appointed

CHAPTER XI.

SPECIAL JURISDICTION WITH RESPECT TO LAND.

Power to invest officers making records-of-rights or general re-assessments with powers of Civil Courts.

136. (*1*) The Local Government may, by order published in the official Gazette, invest any Revenue-officer making or specially revising records-of-rights in any local area in pursuance of a notification under section 32 or making a general re-assessment of land-revenue in any local area in pursuance of a notification under section 49, [1][or any Revenue-officer in a colony] or any Revenue-officer to whose control that officer is subject, with all or any of the powers of any Court constituted under the [2][British Baluchistan Civil Justice Regulation, 1896], for the purpose of trying all or any specified classes of suits or appeals relating to land arising in the local area. IX

(*2*) The Local Government may cancel an order under sub-section (*1*) wholly or in part.

(*3*) While an order or any part of an order under that sub-section continues in force, the powers conferred thereby shall be exercised by the officer invested therewith and not otherwise.

(*4*) Any cases pending before that officer under the order or a subsisting part of the order at the time of the cancellation thereof may be disposed of by him as if the order or that part of it continued in force, unless the Local Government directs, as it is hereby empowered to do, that those cases shall be transferred for disposal to the Courts by which they would have been disposed of if the order had not been published.

Control over such officers and appeals from and revision of their decrees and orders.

137. (*1*)[3] * * * * *

(*2*)[4]* * * A Revenue-officer invested under the last foregoing section with the powers of any such Civil Court as aforesaid shall, with respect to the exercise of those powers, be deemed to be such a Civil Court for the purposes of the [2][British Baluchistan Civil Justice Regulation, 1896.] IX of

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CHAPTER XII.

SUPPLEMENTAL PROVISIONS.

Revenue Deposits.

Power to deposit certain sums other than rent.

138. (*1*) In either of the following cases, namely :—

(*a*) when a headman or other landowner, or an assignee of land-revenue, to whom any sum other than rent is payable on account

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[1] Inserted, Punjab Act 5 of 1912, Colonization of Govt. Lands (Punjab Act, 1912, s. 8.)

[2] Substituted for the words "Punjab Courts Act, 1884," *see* Schedule I of Regulation 2 of 1913, *infra* p. 209.

[3] Sub-section (*1*) has been omitted as not being in force in British Baluchistan, *see* Schedule I of Regulation 2 of 1913.

[4] The words "In the absence of any such notification" have been omitted, *see* Schedule I of Regulation 2 of 1913, *infra* p. 209.

of a liability under this Act refuses to receive the sum from, or to grant a receipt therefor to, the person by whom it is payable,

(b) when the person by whom any such sum is payable is in doubt as to the headman or other landowner, or the assignee of land revenue, entitled to receive it,

that person may apply to a Revenue-officer for leave to deposit the sum in his office, and the Revenue officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application, and if the applicant pays the fee, if any, which may be chargeable on any notice to be issued of the receipt thereof

(2) When a deposit has been so received the liability of the depositor to the headman or other landowner, or the assignee of land revenue, for the amount thereof shall be discharged

139 If the deposit purports to be made on account of any payment due to the Government, it may be credited accordingly — Deposit on account of a payment due to Government

140 (1) A Revenue officer receiving a deposit purporting to be made on any other account shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled — Procedure in case of other deposits

(2) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer

Execution of Orders of Civil and Criminal Courts by Revenue officers

141 Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land, or for the attachment or sale of the produce of any land, shall be addressed to the Collector or such Revenue officer as the Collector may appoint in this behalf, and be executed by the Collector or that officer in accordance with the provisions of the law applicable to the Court issuing the orders and with any rules consistent therewith made by the Financial Commissioner[1] with the concurrence of the Chief Court and the previous sanction of the Local Government — Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to a Revenue officer

[1] *See* footnote 2 on p 85 *supra*

CHAPTER XI.

SPECIAL JURISDICTION WITH RESPECT TO LAND.

Power to invest officers making records-of-rights or general re-assessments with powers of Civil Courts.

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(*2*) The Local Government may cancel an order under sub-section (*1*) wholly or in part.

(*3*) While an order or any part of an order under that sub-section continues in force, the powers conferred thereby shall be exercised by the officer invested therewith and not otherwise.

(*4*) Any cases pending before that officer under the order or a subsisting part of the order at the time of the cancellation thereof may be disposed of by him as if the order or that part of it continued in force, unless the Local Government directs, as it is hereby empowered to do, that those cases shall be transferred for disposal to the Courts by which they would have been disposed of if the order had not been published.

Control over such officers and appeals from and revision of their decrees and orders.

137. (*1*)[3] * * * * *

(*2*) [4]* * * A Revenue-officer invested under the last foregoing section with the powers of any such Civil Court as aforesaid shall, with respect to the exercise of those powers, be deemed to be such a Civil Court for the purposes of the [2][British Baluchistan Civil Justice Regulation, 1896.]

CHAPTER XII.

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of a liability under this Act refuses to receive the sum from, or to grant a receipt therefor to, the person by whom it is payable,

(*b*) when the person by whom any such sum is payable is in doubt as to the headman or other landowner, or the assignee of land revenue, entitled to receive it,

that person may apply to a Revenue-officer for leave to deposit the sum in his office, and the Revenue officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application, and if the applicant pays the fee, if any, which may be chargeable on any notice to be issued of the receipt thereof

(2) When a deposit has been so received the liability of the depositor to the headman or other landowner, or the assignee of land-revenue, for the amount thereof shall be discharged.

Deposit on account of a payment due to Government

139 If the deposit purports to be made on account of any payment due to the Government, it may be credited accordingly

Procedure in case of other deposits

140. (*1*) A Revenue officer receiving a deposit purporting to be made on any other account shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled

(2) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue officer under this section, but nothing in this sub section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer

Execution of Orders of Civil and Criminal Courts by Revenue officers

Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to a Revenue officer

141 Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land, or for the attachment or sale of the produce of any land, shall be addressed to the Collector or such Revenue officer as the Collector may appoint in this behalf, and be executed by the Collector or that officer in accordance with the provisions of the law applicable to the Court issuing the orders and with any rules consistent therewith made by the Financial Commissioner[1] with the concurrence of the Chief Court and the previous sanction of the Local Government

[1] *See* footnote 2 on p 85 *supra*

Attachment of assigned land-revenue.

142. (*1*) Notwithstanding anything in any other enactment for the time being in force, an order issued by any Court for the attachment of assigned land-revenue shall require the person by whom the revenue is payable to pay it to the Collector, and the Collector to hold it subject to the further orders of the Court.

(*2*) A payment to the Collector under sub-section (*1*) shall be an effectual discharge to the person making it.

Preservation of attached Produce.

Preservation of attached produce.

143. (*1*) The attachment of the produce of any land in pursuance of an order of any Court or other authority shall not prevent the person to whom the produce belongs from reaping, gathering or storing it or doing any other act necessary for its preservation.

(*2*) The attaching officer shall do or cause to be done all acts necessary for the preservation of the produce if the person to whom it belongs fails to do so.

(*3*) When sale of produce follows on its attachment, the purchaser shall be entitled, by himself or by any person appointed by him in this behalf, to enter on the place where the produce is and do all that is necessary for the purpose of preserving and removing it.

Division of Produce.

Division of produce.

144. In either of the following cases, namely :—

(*a*) where land-revenue is paid by division or appraisement of the produce,

(*b*) where a superior and an inferior landowner, or two or more shareholders in a holding or tenancy, are jointly interested in any produce, and either or any of the landowners or tenants, as the case may be, desires the assistance of a Revenue-officer for the purpose of dividing or appraising the produce,

the provisions of the Punjab Tenancy Act, 1887,[1] with respect to the division or appraisement of produce shall apply so far as they can be made applicable. XVI o

Miscellaneous.

Village-cesses.

145. (*1*) At any of the following times, namely :—

(*a*) when a record-of-rights is being made or specially revised for an estate,

(*b*) when the local area in which an estate is situate is being generally re-assessed and before the assessment has been confirmed,

[1] Punjab and North-West Code, 1903.

(c) at any other time on an order made with respect to any estate by the Local Government with the previous sanction of the Governor General in Council,

a Revenue-officer shall prepare a list of village-cesses, if any, levied in the estate which have been generally or specially approved by the Local Government, or the title to which has before the passing of this Act been judicially established

(2) [1] * * * * *

(3) The Local Government may impose on the collection of any village cess comprised in the list such conditions as to police or other establishments connected with the village, market or fair in or on account of which the cess is levied, as it thinks fit

(4) The Governor General in Council may, on a reference from the Local Government, declare whether any cess contribution or due levied in an estate is or is not a village cess

(5) A declaration of the Governor General in Council under the last foregoing sub-section shall be conclusive and shall not be liable to be questioned in any Court

146 When a superior landowner is entitled to receive in respect of any land from an inferior landowner dues in kind or in cash of fluctuating quantity or amount the Collector may— Superior landowners dues

(a) on the application of both landowners, or

(b) with the previous sanction of the Local Government, on the application of either of them

commute those dues into a fixed percentage of the land revenue payable by the inferior landowner in respect of the land

147. (1) The Local Government may, with the previous sanction of the Governor General in Council authorize the remission of land revenue in whole or in part in consideration of the person liable therefor undertaking to render in lieu thereof such public service as may be specified in an agreement to be approved by the Local Government and executed by that person Substitution of service for payment of land revenue

(2) The Local Government may, with the like sanction, cancel any remission authorized and agreement made, under sub section (1)

(3) If a landowner bound by an agreement under that sub section to render public service in lieu of paying land revenue fails to render the service to the satisfaction of the Collector, the Collector may determine the

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[1] Sub-section (2) of s 145 was repealed by Act 17 of 1896 s 3 Punjab Code

portion of the land-revenue remitted which is represented by the service in respect of which the landowner is in default, and, with the previous sanction of the Financial Commissioner,[1] recover that portion as if it were an arrear of land-revenue due in respect of the land for the land-revenue whereof the service was substituted.

Recovery of cost of assessing assigned land-revenue.

148. (*1*) When land of which the land-revenue has been assigned in whole or in part is re-assessed, the assignee shall be liable to pay such a share of the cost of making the re-assessment as the Financial Commissioner[1] may determine to be just.

(*2*) That share may be recovered by the Collector by deduction of the amount thereof from the land-revenue due to the assignee.

Penalty for failure to attend within limits of estate in obedience to order of Revenue-officer.

149. If a person required by a summons, notice, order or proclamation proceeding from a Revenue-officer to attend at a certain time and place within the limits of the estate in which he ordinarily resides, or in which he holds or cultivates land, fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine which may extend to fifty rupees.

Prevention of encroachment on common lands.

150. (*1*) Where land which has been reserved for the common purposes of the co-sharers therein has been encroached on by any co-sharer, a Revenue-officer may, on the application of any other co-sharer, eject the encroaching co-sharer from the land, and, by order proclaimed in manner mentioned in section 22, forbid repetition of the encroachment.

(*2*) The proceedings of the Revenue-officer under sub-section (*1*) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

Papers kept by village-officers to be deemed public documents.

151. (*1*) Any record or paper which a village-officer is required by law or by any rule under this Act, to prepare or keep shall be deemed to be the property of the Government.

(*2*) A village-officer shall, with respect to any such record or paper in his custody, be deemed, for the purposes of the Indian Evidence Act, 1872,[2] to be a public officer having the custody of a public document which any person has a right to inspect. I of 18

Costs.

152. (*1*) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit.

(*2*) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

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[1] *See* footnote 2 on p. 35 *supra*.

[2] Genl. Acts, Vol. II.

153. In the computation of the period for an appeal from, or an application for the review of, an order under this Act the limitation therefor shall be governed by the Indian Limitation Act, 1877 [1] — Computation of periods limited for appeals and applications for review

1877

154. (*1*) A Revenue-officer, or a person employed in a revenue-office, shall not— — Restriction on Revenue-officers bidding at auctions or trading

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any Revenue officer or Revenue Court in the district in which he is employed has ordered to be sold, or,

(*b*) in contravention of any rules made by the Local Government in this behalf engage in trade in that district

(*2*) Nothing in sub section (*1*) shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act 1882,[2] or other law

1882

155 (*1*) The Financial Commissioner [3] may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act, and any other enactment for the time being in force— — Power to make rules.

(*a*) fixing the number and amount of the instalments, and the times and places and the manner, by at and in which any sum other than rent or land revenue which is payable under this Act or of which a record has been made thereunder is to be paid ,

(*b*) fixing the dates on which profits are to be divisible by headmen or other persons by whom they are realized on behalf of co-sharers ,

(*c*) prescribing the fees to be charged for the service and execution of processes issued by Revenue-officers and Revenue Courts, the mode in which those fees are to be collected, the number of persons to be employed in the service and execution of those processes, and the remuneration and duties of those persons ,

(*d*) regulating the procedure in cases where persons are entitled to inspect records of revenue-offices, or records or papers in the custody of village officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies,

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[1] *See* now the Indian Limitation Act 1908 (9 of 1908) Genl Acts Vol VI

[2] *See* now the Indian Companies Act 1913 (7 of 1913), Genl Acts Vol. VII

[3] *See* footnote 2 on p 35 *supra*,

(*e*) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner[1] thinks necessary to be kept, made or compiled in revenue-offices or submitted to any authority;

(*f*) declaring what shall be the language of any of those offices, and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English; and

(*g*) generally for carrying out the purposes of this Act.

(2) Until rules are made under clauses (*a*) and (*b*) of sub-section (*1*) the sums therein referred to shall be payable by the instalments, at the times and places, and in the manner by, at and in which they are now payable.

(3) Rules made by the Financial Commissioner[1] under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government,[2] * * * *.

Rules to be made after previous publication.

156. The power to make any rules under this Act is subject to the control of the Governor General in Council, and to the condition of the rules being made after previous publication.

Powers exercisable by the Financial Commissioner from time to time.

157. All powers conferred by this Act on the [1]Financial Commissioner may be exercised from time to time as occasion requires.

Exclusion of Jurisdiction of Civil Courts.

Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers.

158. Except as otherwise provided by this Act—

(*1*) a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by this Act to dispose of, or take cognizance of the manner in which the Local Government or any Revenue-officer exercises any powers vested in it or him by or under this Act; and in particular—

(2) a Civil Court shall not exercise jurisdiction over any of the following matters, namely:—

(i) any question as to the limits of any land which has been defined by a Revenue-officer as land to which this Act does or does not apply;

(ii) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue-officer, as such;

(iii) any claim to the office of kánúngo, zaildár, inamdár or village-officer, or in respect of any injury caused by exclusion from such

[1] See footnote [2] on page 35 *supra*.

[2] The words "and rules under clause (*c*) of sub-section (*1*) shall not take effect until they have also been confirmed by the Governor General in Council" were omitted by Sch. Pt. I of the Decentralization Act, 1914 (4 of 1914).

office, or to compel the performance of the duties or a division of the emoluments thereof;

(iv) any notification directing the making or revision of a record-of-rights;

(v) the framing of a record-of rights or annual record, or the preparation, signing or attestation of any of the documents included in such a record;

(vi) the correction of any entry in a record-of rights, annual record or register of mutations;

(vii) any notification of the undertaking of the general re-assessment of a district or tahsil having been sanctioned by the Governor General in Council;

(viii) the claim of any person to be liable for an assessment of land-revenue or of any other revenue assessed under this Act;

(ix) the amount of land revenue to be assessed on any estate or to be paid in respect of any holding under this Act;

(x) the amount of, or the liability of any person to pay, any other revenue to be assessed under this Act, or any cess, charge or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;

(xi) any claim relating to the allowance to be received by a landowner who has given notice of his refusal to be liable for an assessment or any claim connected with, or arising out of, any proceedings taken in consequence of the refusal of any person to be liable for an assessment under this Act;

(xii) the formation of an estate out of waste land;

(xiii) any claim to hold free of revenue any land, mills fisheries or natural products of land or water;

(xiv) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery of land revenue, or any sum recoverable as an arrear of land-revenue;

(xv) any claim to set aside on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue;

(xvi) the amount of, or the liability of any person to pay, any fees, fine costs or other charges imposed under this Act;

(xvii) any claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of, proceedings for parti-

tion, not being a question as to title in any of the property of which partition is sought;

(xviii) any question as to the allotment of land on the partition of an estate, holding or tenancy or as to the distribution of land subject by established custom to periodical re-distribution, or as to the distribution of land-revenue on the partition of an estate or holding or on a periodical re-distribution of land, or as to the distribution of rent on the partition of a tenancy;

[1](xviii-*a*) any question connected with or arising out of or relating to any proceedings for the determination of boundaries of estates subject to river action under sections 101-A, 101-B, 101-C and 101-D, respectively, of Chapter VIII;

(xix) any claim to set aside or disturb a division or appraisement of produce confirmed or varied by a Revenue-officer under this Act;

(xx) any question relating to the preparation of a list of village-cesses or the imposition by the Local Government of conditions on the collection of such cesses;

(xxi) any proceeding under this Act for the commutation of the dues of a superior landowner;

(xxii) any claim arising out of the enforcement of an agreement to render public service in lieu of paying land-revenue; or

(xxiii) any claim arising out of the liability of an assignee of land-revenue to pay a share of the cost of collecting or re-assessing such revenue, or arising out of the liability of an assignee to pay out of assigned land-revenue, or of a person who would be liable for land-revenue if it had not been released, compounded for or redeemed to pay on the land-revenue for which he would but for such release, composition or redemption be liable, such a percentage for the remuneration of a zaildár, inámdár or village-officer as may be prescribed by rules for the time being in force under this Act.

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[1] Clause (XVIII*a*) was added by the Punjab Riverain Boundaries Act, 1899 (Punjab Act I of 1899), s. 3.

THE EXCISE ACT, 1896

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THE SCHEDULE.

ACT No. XII OF 1896.[1]

[19th March, 1896.]

An Act to amend the law relating to the Excise-revenue in force in Northern India, Burma and Coorg.

WHEREAS it is expedient to amend the law in force in Northern India, Burma and Coorg relating to the production, sale, possession and import of spirit, fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, local extent and commencement.

1. (*1*) This Act may be called the Excise Act, 1896.

(*2*) It extends to the territories administered respectively by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, the Lieutenant-Governor of the Punjab, and the Chief Commissioners of the Central Provinces, Burma (inclusive of Upper Burma), Coorg and Ajmer and Merwara; and

(*3*) It shall come into force at once.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt. V, p. 9; for Report of the Select Committee, *see ibid*, p. 153; for Proceedings in Council, *see ibid*, Pt. VI, pp. 16, 94, 135 and 156.

This Act has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), *infra* p. 209.

2 (*1*) The enactments mentioned in the Schedule are repealed to the extent specified in the fourth column thereof. Repeal

(*2*) But all rules made, powers conferred and licenses and farms granted under any of the enactments so repealed and in force at the commencement of this Act shall be deemed to have been respectively made, conferred and granted under this Act

3. (*1*) In this Act— Definitions

(*a*) "Chief Revenue-authority" means,—

in the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh,—the Board of Revenue;

in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Burma,—the Financial Commissioner, and

in the territories respectively administered by the Chief Commissioners of the Central Provinces, Coorg and Ajmer and Merwara,—the Chief Commissioner

(*b*) "Collector" includes any Revenue officer in independent charge of a district, and any officer appointed by the Local Government to discharge throughout any specified local area, the functions of a Collector under this Act;

(*c*) "Commissioner of Revenue" means any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Commissioner of Revenue under this Act

(*d*) "Magistrate" means any Magistrate exercising powers not less than those of a Magistrate of the second class, or any Magistrate of the third class specially authorized in this behalf by the Magistrate of the district[1]

(*e*) "import" includes removal into one Province of British India from another:

(*f*) "place" includes also house, boat and raft

(*g*) "tari" means the sap of any kind of palm tree —

(*h*) "*fermented liquor*" means malt liquor, wine, pachwai and *fermented* tari, and in any provision of this Act, shall, if the Local Government, subject to the control of the Governor General in Council, so directs, include any other fermented liquor, and also tari though it may not have perceptibly begun to ferment

(*i*) "spirit" means any liquor containing alcohol obtained by distillation.

(*j*) the expression "intoxicating drugs" means ganja, bhang, charas, and every preparation and admixture of the same, [2][and includes every other drug

[1] Now District Magistrate, *see* the Code of Criminal Procedure, 1898 (Act 5 of 1898) s 3 (2) [Genl Acts Vol V] This Act was declared in force in British Baluchistan by Regulation 2 of 1913 *infra* p 209

[2] Added by s 2 of the Excise (Amendment) Act, 1906 (7 of 1906)

which the Local Government may, by notification in the local official Gazette, declare to be included in this definition, and every preparation and admixture of any such drug :]

(k) "hemp" means any variety of the hemp plant from which intoxicating drugs can be produced :

(l) "tola" means a weight of one hundred and eighty grains Troy :

(m) "ser" means a weight of eighty tolas ;

(n) the articles next hereinafter mentioned shall be deemed to be sold retail within the meaning of this Act when sold in quantities not exceeding those next hereinafter specified in respect of them, that is to say,—

foreign spirit or foreign fermented liquor, two imperial gallons or twelve reputed quart bottles ;

country spirit, one ser, and in Burma one reputed quart bottle ;

country fermented liquor, four sers, and in Burma four reputed quart bottles ;

bhang or any preparation or admixture thereof, one ser ;

ganja or charas or any preparation or admixture thereof, five tolas.

If sold in larger quantities, they shall be deemed to be sold wholesale.

(2) In any case in which doubt arises, the Local Government may decide what, for the purposes of this Act, shall be deemed to be "country spirit," "country fermented liquor," "foreign spirit," and "foreign fermented liquor"; and such decision shall be binding on the Courts.

Saving of Acts XVI of 1863 and XIII of 1889.

4. Nothing herein contained shall affect Act XVI of 1863[1] (*to make special provision for the levy of the Excise-duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry*) or the Cantonments Act, 1889.[2] XIII of

CHAPTER II.

PRODUCTION OF SPIRIT AND FERMENTED LIQUOR.

Manufacture of spirit and liquor without license prohibited.

5. No person shall construct, work or possess a distillery, still or brewery or manufacture fermented liquor, in any district except under a license granted by the Collector or by a person authorised by the Collector to grant such license, and in accordance with the conditions (if any) contained therein.

Power to establish distilleries for country spirit.

6. The Collector may, with the previous sanction of the Chief Revenue-authority, from time to time—

(a) establish at any place within his district a distillery in which country spirit may be made, and discontinue any distillery so established ; and

[1] *See* the Excise (Spirits) Act, 1863 (16 of 1863), Genl. Acts, Vol. I, not in force in British Baluchistan.

[2] *See* now Act 15 of 1910, Genl. Acts, Vol. VII, but the Act is not in force in British Baluchistan.

(*b*) fix limits within his district within which no such spirit, unless made in the said distillery, shall be introduced without a pass from him

7. No spirit shall be removed from any distillery licensed under section 5 or established under section 6 until— Duty on spirit

(*a*) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or

(*b*) a bond for such duty has been executed, or

(*c*) duty in respect of the materials used in making such spirit has been levied at such rates and in such manner as the Local Government, with the previous sanction of the Governor General in Council, may from time to time direct

Explanation —Duty may be fixed or made payable under this section at different rates according to the places to which any spirit is to be removed for consumption

8. No fermented liquor shall be removed from a brewery licensed under section 5 until— Duty on fermented liquor

(*a*) duty has been paid thereon at the rate for the time being leviable under the Indian Tariff Act, 1894 [1] on like liquor imported by sea
894 into any part of British India except Aden and Perim, or at such lower rate as the Local Government having regard to the circumstances of the brewery or of the local area in which the brewery is situate may from time to time prescribe or

(*b*) a bond for such duty has been executed

9 The Chief Revenue authority may, from time to time, make rules as to— Power for Chief Revenue authority to make rules as to distilleries and breweries licensed under section 5

(*a*) the granting of licenses for distilleries stills and breweries under section 5,

(*b*) the notices to be given by the proprietor of a licensed distillery or licensed brewery when he commences and discontinues work,

(*c*) the size and description of the stills in such distillery,

(*d*) the storing and passing out of the spirit made in such distillery, or of the fermented liquor made in such brewery, and the contents of the passes,

(*e*) the inspection and examination of such distillery or brewery, and the warehouses connected therewith, and of the spirit or fermented liquor made and stored therein,

(*f*) the furnishing of statements of the spirit and the stills, coppers, casks and other utensils in such distillery, or of the fermented liquor and the mashtuns, underbacks, wort receivers coppers,

[1] Genl Acts, Vol IV

heating tanks, coolers, and collecting, fermenting and other vessels in such brewery.

Power for Chief Revenue-authority to make rules for distilleries established under section 6.

10. The Chief Revenue-authority may, from time to time, make rules as to—

(*a*) the management of distilleries established under section 6, and, in particular, the conditions on which any materials to be used in making spirit may be brought into such distillery;

(*b*) the conditions on which spirit may be made in such distilleries; and

(*c*) the storing and passing out of the spirit so made, and the contents of the passes.

Sanction to rules under sections 9 and 10.

11. Except in the territories respectively administered by the Chief Commissioners of the Central Provinces, Coorg and Ajmer and Merwara, the sanction of the Local Government is required to validate rules under sections 9 and 10.

CHAPTER III.

CULTIVATION AND CONTROL OF INTOXICATING DRUGS.

Prohibition, restriction and regulation of cultivation of hemp and production of intoxicating drugs.

12. (*1*) In Burma, the cultivation of hemp and the preparation of intoxicating drugs are prohibited except under, and in accordance with, a license granted by such officer as the Local Government may from time to time appoint in this behalf.

(*2*) In the other territories to which this Act extends, the Local Government, with the previous sanction of the Governor General in Council, may, from time to time by notification in the official Gazette, in respect of the whole or any part of the territories administered by it,—

(*a*) prohibit absolutely, or except under, and subject to the conditions of, a license granted by such officer as the Local Government may from time to time appoint in this behalf, the cultivation of the hemp plant and the production or preparation of intoxicating drugs from the hemp plant so cultivated, and place the cultivation of the hemp plant and the production or preparation and storage of such intoxicating drugs as aforesaid under such supervision as may be deemed necessary to secure payment of the duty (if any) imposed under this Act;

(*b*) restrict and regulate, in such manner as may by rule be prescribed, the collection by any person of the spontaneous growth of the hemp plant and the preparation of intoxicating drugs from the spontaneous growth so collected; and

(c) prohibit, absolutely or otherwise than by certain specified routes and under specified conditions, the import and transport of intoxicating drugs,

and may, in like manner, cancel or vary any such notification

13 The Local Government, with the previous sanction of the Governor General in Council, may, from time to time by notification in the official Gazette, in respect of the whole or any part of the territories administered by it,— Duty on cultivation of hemp and intoxicating drugs

(a) impose such duty, not exceeding two hundred rupees per acre, as it may think fit on the cultivation of hemp, or,

(b) impose such duty, not exceeding twenty rupees per ser, as it may think fit on intoxicating drugs produced or prepared in or imported into, or exported from, or transported from place to place within any of the territories to which this Act extends or any part thereof

and may, in like manner, alter or abolish any duty imposed under this section

14 The Local Government, with the previous sanction of the Governor General in Council, may, from time to time,— Establishment and licensing of bonded and other warehouses and levy of duty on intoxicating drugs on issue therefrom

(a) establish or license bonded or other warehouses for the storage of intoxicating drugs, and

(b) direct that, subject to such conditions (if any) as it may, from time to time, impose, the levy of the duty (if any) payable under section 13 on intoxicating drugs in transit to or from, or stored in such warehouses shall be postponed until such time as may by rule be fixed in this behalf

15. (1) If intoxicating drugs be lodged in a warehouse established under the last foregoing section the owner shall pay monthly, on receiving a bill or written demand for the same from the Collector or other officer deputed by the Collector in this behalf, warehouse dues at such rates as the Chief Revenue authority may fix Payment of warehouse dues

(2) If any bill for warehouse-dues presented under this section is not discharged within ten days from the date of presentation, the Collector may, in discharge of such demand (any transfer or assignment of the drugs notwithstanding), cause to be sold, in such manner as he may think fit, such sufficient portion of the drugs as he may select

(3) Out of the proceeds of such sale the Collector shall satisfy, first, the duty payable in respect of the drugs sold, and next the demand in respect of

which the drugs were sold, and shall then pay the surplus (if any) to the owner of the drugs on his application:

Provided that, if the drugs fail to produce a sum sufficient to satisfy the said duty and demand, the same shall not be sold, but shall be destroyed by, or by order of, the Collector:

Provided also that the application for such surplus (if any) as aforesaid be made within one year from the date of the sale of the drugs, or that sufficient cause be shown for not making it within such period.

Period during which intoxicating drugs may remain warehoused.

16. Any intoxicating drugs warehoused under this Act may be left in the warehouse in which they are deposited, or in any warehouse to which they may in manner hereinafter provided be removed, till the expiry of two years from the date on which they were so deposited. The owner of any drugs remaining in a warehouse on the expiry of such period shall forthwith clear the same:

Provided that when the license for a warehouse licensed under this Act is cancelled and the Collector gives notice of such cancellation to the owner of any drugs deposited in such warehouse, such owner shall, within seven days from the date on which such notice is given, remove such drugs to another warehouse or clear them.

Power to remove intoxicating drugs from one warehouse to another.

17. (*1*) Any owner of intoxicating drugs warehoused under this Act may, at any time within two years from the date on which the drugs were so warehoused, with the permission of the Collector and on such conditions and after giving such security (if any) as the Collector may direct, remove the drugs from one warehouse to another, whether established or licensed by the same or another Local Government and whether under this Act or under any other enactment for the time being in force.

Possession of intoxicating drugs.

18. In Burma no person shall have in his possession any intoxicating drugs except under, and in accordance with the terms of, a general [1]exemption granted by the Local Government, or a license granted by such officer as the Local Government may, from time to time, appoint in this behalf.

[2][(*2*) In the other territories to which this Act extends, no person shall have in his possession—

(*a*) any drugs which the Local Government has by notification under section 3, sub-section (*1*), clause (*j*), declared to be included in the definition of "intoxicating drugs," except under, and in accordance with the terms of, a general exemption granted by the Local Government or a license granted by such officer

[1] For notification exempting cocaine under certain conditions, *see* Burma Gazette, 1905, Pt. I, p. 40.

[2] Sub-section (2) was substituted by s. 3 of the Excise (Amendment) Act, 1906 (7 of 1906).

as the Local Government may, from time to time, appoint in this behalf, or

(*b*) any quantity of any intoxicating drugs mentioned in section 3, sub section (*1*), clause (*n*), greater than the amount therein specified in respect of such drugs, unless he is permitted to collect, cultivate, manufacture or sell the same, or holds a pass therefor from the Collector or some other officer empowered by the Local Government to grant such passes]

Power for Local Government to make rules

19. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time by notification in the official Gazette, make rules consistent with this Act—

(*a*) to regulate the time, place and manner of payment of the duties (if any) imposed under section 13,

(*b*) to carry into effect the provisions of section 12, section 14 and section 18 or any of them and

(*c*) generally, to carry into effect the provisions of this Chapter

Power for Collector or other authorized officer to grant licenses and passes for the possession or transport of intoxicating drugs and for Chief Revenue authority to make rules

20. The Collector or any other officer empowered by the Local Government in this behalf may, from time to time grant licenses or passes to persons desirous of possessing or transporting intoxicating drugs, and the Chief Revenue authority, with the previous sanction of the Local Government may make rules to regulate the grant of such licenses or passes

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CHAPTER IV

SALE OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS

Spirit fermented liquor and intoxicating drugs not to be sold without license

21. No spirit, fermented liquor or intoxicating drug shall be sold except under, and in accordance with the terms of, a license granted under the provisions hereinafter contained

Provided as follows —

(*a*) nothing in this section applies to the sale of any foreign spirit or foreign fermented liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease,

(*b*) any officer empowered in this behalf by the Chief Revenue-authority may grant to travelling merchants, subject to such rules and restrictions as such authority may from time to time

prescribe, a general license authorizing them to sell foreign spirit and foreign fermented liquor wholesale in any district which they may visit in the course of their travels, without taking out a fresh license for that district;

(c) any person making or producing country spirit or country fermented liquor, in accordance with the provisions of this Act, may, subject to any rules from time to time made by the Local Government in this behalf, sell such spirit or liquor to any person licensed under this Act as a retail vendor of such spirit or liquor;

(d) any person authorized to cultivate the hemp plant may sell any intoxicating drug prepared from his plants to any person to whom he is permitted by the conditions of his license to sell the same, or to any person authorized to purchase the same by the order in writing of the Collector:

[1] "[Provided also that, where the Local Government has declared, by notification under section 3, sub-section (*1*), clause (*j*), any drug to be included in the definition of "intoxicating drug," such drug may be sold in the territories to which this Act extends under, and in accordance with the terms of, a general exemption granted by the Local Government."]

Licenses how granted and cancelled.

22. (*1*) Subject to the rules made by the Chief Revenue-authority under the powers conferred by this Act, the Collector may grant licenses for the sale of foreign spirit and foreign fermented liquor, wholesale or retail, and for the retail sale of country spirit or country fermented liquor, and (except in Burma) of intoxicating drugs, within his district or any part thereof or at any place therein.

(*2*) Licenses for the sale of country spirit and country fermented liquor and intoxicating drugs, wholesale, and licenses for the sale, in Burma, of intoxicating drugs, retail, shall be granted only by such officer as the Local Government from time to time appoints in this behalf.

(*3*) Any license granted under this section may be cancelled by the Collector for any cause specified therein.

Further power to cancel licenses.

23. (*1*) Whenever the Collector considers that the license of a vendor of country spirit, country fermented liquor or intoxicating drugs should be cancelled for any cause other than those specified in such license, he shall remit a sum equal to the amount of the license-fee for fifteen days, and shall either give fifteen days' previous notice of his intention to cancel the license, or shall

[1] This proviso was added by s. 4 of the Excise (Amendment) Act, 1906 (7 of 1906).

in addition to remitting such sum as aforesaid, make such compensation for default of notice as the Commissioner of Revenue or the Chief Revenue-authority directs

(2) On the expiration of such notice or the payment of such additional compensation, the Collector may cancel the said license

Surrender of retail license

24. (1) Any retail vendor licensed under this Act may surrender his license on the expiration of one month s previous notice given by him to the Collector of his intention to surrender the same and on payment of such sum not exceeding the amount of the license fee for six months, as the Collector may fix in this behalf

(2) If the Collector is satisfied that there is sufficient reason for surrendering a license, he may remit the sum so fixed

Power for Collector to farm fees and for farmer to grant licenses

25. (1) The Collector with the sanction of the Chief Revenue authority, may let in farm—

(a) the fees leviable in any district or part of a district on licenses for the retail sale of any description of country spirit or country fermented liquor or (except in Burma) of intoxicating drugs,

(b) the right to manufacture, in any district or part of a district in which no distillery is established under section 6, country spirit or country fermented liquor

(2) When the fees so leviable or the right to manufacture such spirit or liquor, or both, are or is let in farm, the farmer may, subject to such reservations or restrictions as the Collector, with the sanction of the Chief Revenue authority, may from time to time make or impose, grant licenses for the retail sale or for the manufacture, or for both, as the case may be, of such articles within the local limits of his farm, and shall file in the Collector's office a list of all the licenses granted by him in such form and on such *day or days in each year as the Chief Revenue-authority may, from time to* time, prescribe in this behalf

Farm may be cancelled

26 The Collector, with the sanction of the Chief Revenue authority, may cancel any farm granted under this Act

Compensation to farmers in certain cases

27. If any such farm be cancelled for any cause other than a breach on the part of the farmer of the conditions of the farm, or if any reservation or restriction with respect to the grant of licenses be made or imposed within the term of the farm, the farmer shall be entitled to receive for any loss which he sustains thereby such compensation as the Chief Revenue-authority may determine

Recovery of arrears by farmers

28. Every farmer under this Act may use the same means and processes for the recovery of any arrear of fees due to him from any retail vendor as

may be lawfully used by the local landholders for the recovery of arrears of rent due to them from their tenants.

Power for Chief Revenue-authority to regulate supply of tari to licensed vendors.

29. The Chief Revenue-authority may, from time to time, make rules to regulate the mode in which tari shall be supplied to licensed vendors of the same.

CHAPTER V.

POSSESSION AND IMPORT OF SPIRIT AND FERMENTED LIQUOR.

Possession of spirit, etc.

30. (*1*) No person shall have in his possession any quantity of any spirit or fermented liquor larger than that specified in section 3, sub-section (*1*), clause (*a*), in respect of such spirit or liquor, unless he is permitted to manufacture or sell the same, or he holds a pass therefor from the Collector or from some other officer empowered by the Local Government to grant such passes.

(*2*) Nothing in this section extends to—

(*a*) any foreign spirit or foreign fermented liquor in the possession of any common carrier or warehouseman as such, or purchased by any person for his private use and not for sale, or

(*b*) tari intended to be used for the manufacture of gur or molasses.

Spirit and fermented liquor from foreign territory subject to duty.

31. A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof,—

(*a*) if the Local Government has fixed a duty under clause (*a*) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or,

(*b*) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

(*2*) The provisions of sub-section (*1*) with respect to spirit shall apply to fermented liquor also, with this modification, that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian[1]

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[1] Genl. Acts, Vol. IV.

II of 1894 Tariff Act, 1894, or such lower duty as the Local Government, having regard to the rate or rates of duty for the time being leviable under clause (*a*) of section 8, may from time to time prescribe

(*3*) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final

Spirit and fermented liquor from territory beyond India subject to duty

32. (*1*) The Governor General in Council may, from time to time by notification in the Gazette of India, impose such duty as he thinks fit on any spirit or fermented liquor brought by land from beyond the limits of India into any territory to which this Act extends or into any specified part thereof, and may alter or abolish any duty so imposed

(*2*) When any duty is imposed under this section, the Governor General in Council may by rule prescribe the time, place and manner of payment of the same

CHAPTER VI

OFFICERS AND THEIR POWERS

Collectors may appoint Excise-officers

33. The Collector may appoint persons, by name or by virtue of their office, to be officers for the collection of the excise-revenue and for the prevention of offences against this Act, and the officers so appointed shall, in addition to their ordinary designations (if any), be styled Excise-officers

Recovery of arrears of fees

34. The Collector may recover any amount due to the Government under this Act or the rules made hereunder, by distress and sale of the moveable property of the person from whom such amount is due or of his surety or by any other process for the time being in force for the recovery of arrears of land-revenue due from landholders or from farmers of land or their sureties

Power of Excise officer to inspect shops

35. Any Excise-officer may enter and inspect at any time by day or by night the shop or premises in which any manufacturer or vendor licensed under this Act carries on the manufacture of country spirit, or the sale of country spirit, country fermented liquor or intoxicating drugs

Power of Excise-officers to arrest person carrying spirit, etc., liable to confiscation

36. Any Excise-officer may stop and detain any person carrying any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act, and may seize such spirit, liquor or drug, together with any vessels, packages or coverings in which it is contained, and any animals and conveyances used in carrying it, and may also arrest the person in whose possession such spirit, liquor or drug is found

Power of Excise-officers to

37. Any Excise-officer in the receipt of a monthly salary of not less than ten rupees, or who receives an annual remuneration equivalent to such salary,

arrest persons in possession of article liable to confiscation and to seize article.

may arrest any person having in his possession any article liable to confiscation under this Act or engaged in the unlawful sale of any spirit, fermented liquor or intoxicating drug, and may seize such article, spirit, liquor or drug.

Power of Excise-officer to search on information of illicit manufacture or possession.

38. Whenever any Excise-officer in receipt of such monthly salary or annual remuneration as aforesaid has reason to believe, from information given by any person (which information shall be taken down in writing), that in any place spirit is unlawfully manufactured, or any article liable to confiscation under this Act is kept or concealed, such officer may, after sunrise and before sunset (but always in the presence of an officer of police in the receipt of a monthly salary of not less than ten rupees, unless the Excise-officer is himself such an officer of police), enter into such place and in case of resistance may break open any door and force and remove any other obstacle to such entry, and may seize and carry away such spirit or article, and may also arrest the occupier of the place, with all other persons concerned in the manufacture of such spirit or in the keeping and concealing of such article.

Collector may issue warrant of arrest in certain cases.

39. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing or from the proceedings in any other case under this Act or any other law, to be engaged in the unlawful sale of spirit or fermented liquor or intoxicating drugs, or to have in his possession any article liable to confiscation under this Act.

Collector may issue search-warrant.

40. (*1*) The Collector may issue his warrant for the search of any place in which he has reason to believe, either from information in writing or from the proceedings in any other case under this Act or any other law, that spirit is unlawfully manufactured, or that any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act is kept or concealed.

(*2*) Such warrant may be executed by any Excise-officer in the receipt of a monthly salary of not less than ten rupees at the time and in the manner prescribed in section 38.

(*3*) Whenever the Collector thinks that the search should be made after sunset and before sunrise on any particular day, he shall issue a warrant specially authorizing the search to be so made. Such warrant may be executed by any Excise-officer as aforesaid in the manner prescribed in section 38, and shall cease to be in force at sunrise on the day next following.

Excise-officer to report arrest, etc., and to take person

41. Whenever an Excise-officer arrests any person, or seizes any article liable to confiscation under this Act, or enters any place for the purpose of searching for any such article, he shall, within twenty-four hours thereafter,

make a full report of all the particulars of such arrest, seizure or search to his official superior, and unless acting under the warrant of the Collector, shall take the person arrested or the article seized with all convenient despatch to the Magistrate for trial or adjudication

arrested to Magistrate

42 Whenever any person is arrested or any article seized under the warrant of a Collector issued under this Act the officer making such arrest or seizure shall within twenty four hours thereafter, take the person arrested or the article seized to the Collector, and the Collector, after such inquiry as he thinks necessary, shall send such person or article to the nearest Magistrate, or shall order the immediate discharge of such person or the release of such article

Procedure after arrest or seizure

43 All Police officers are required to aid the Excise-officers in the due execution of this Act upon request made by such Excise officers

Police to aid Excise officers

44 (*1*) The Local Government may, from time to time invest either by name or in virtue of his office—

Power for Local Government to invest Police officers with powers of Excise officers

(*a*) any Police officer with the powers conferred on Excise officers by section 36 of this Act

(*b*) any Police officer in charge of a station or any Police officer of or above the grade of head constable or sergeant with the powers conferred on Excise officers by sections 37 and 38 of this Act

(*2*) Every officer so invested shall, for all purpose connected with the exercise of these powers, be deemed to be an Excise officer within the meaning of this Act

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CHAPTER VII

PENALTIES

45 (*1*) Whoever in contravention of section 5 constructs works or possesses a *distillery, still or brewery, or makes fermented liquor, shall* be punished with imprisonment for a term which may extend to four months or with fine which may extend to one thousand rupees, or with both

For illegal manufacturing spirit or liquor

(*2*) All spirit and liquor made in contravention of section 5, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation

46 (*1*) Any person who—

For illegally introducing country spirit

(*a*) without a special pass from the Collector introduces into the limits fixed for the consumption of spirit made at a distillery established under section 6, any country spirit manufactured at another place, or

For illegally removing spirit or fermented liquor.
(*b*) in contravention of section 7 or section 8 or of any rule made under section 9 or section 10, removes any spirit from a distillery or any fermented liquor from a brewery, or

For illegally importing spirit or fermented liquor.
(*c*) in contravention of section 31, brings any spirit or fermented liquor into any territory to which this Act extends, or

For importing spirit, fermented liquor or intoxicating drug without paying duty.
(*d*) without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 32, brings any spirit or fermented liquor into any territory to which this Act extends,

shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

(2) All such spirit or fermented liquor, together with the vessels containing the same, and any animals and conveyances used in carrying it, shall be liable to confiscation.

For contravening rules prescribed by Chief Revenue-authority.
47. Any person who, except in cases herein otherwise provided for, wilfully contravenes any rule made under section 9 or section 10 shall be punished with fine not exceeding one hundred rupees.

For illegally cultivating hemp or collecting the spontaneous growth of hemp, or preparing, possessing, importing, exporting or transporting intoxicating drugs.
48. (*1*) Any person who, in contravention of any provision of Chapter III or any rule thereunder, or without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 13,—

(*a*) cultivates hemp, or

(*b*) collects the spontaneous growth of the hemp plant, or

(*c*) prepares any intoxicating drug, or

(*d*) possesses any intoxicating drug, or

(*e*) imports, exports or transports any intoxicating drug,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Any intoxicating drug in respect of which an offence has been committed under this section, together with the vessels containing the same and any animals and conveyances used in carrying it, shall be liable to confiscation.

For illicitly selling spirit, etc.
49. Any person who, in contravention of section 21, sells any spirit, fermented liquor or intoxicating drug, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

For permitting drunkenness, etc., in shop.
50. Any person licensed to sell retail spirit, or fermented liquor, or intoxicating drugs, who permits drunkenness, riot or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any

wearing-apparel or other effects in barter for spirit, fermented liquor or intoxicating drugs, shall be punished with fine which may extend to two hundred rupees

51. Any person who possesses any spirit or liquor, in contravention of section 30, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and the spirit or liquor, together with any vessels, packages and coverings in which it is contained, and any animals and conveyances used in carrying it, shall be liable to confiscation

For illegally possessing spirit or liquor

52. Any person holding a license under this Act and refusing to produce the same on the demand of any Excise officer, and any person who breaks any rule under this Act, or any condition of a license granted under this Act for the breach of which rule or condition no other penalty is hereby provided shall be punished with fine which may extend to fifty rupees

For refusing to produce *license* and for breach of rules and conditions.

53 (*1*) Any owner or occupier of land, and any agent of any such owner or occupier, who authorizes or connives at the illegal manufacture of spirit or the sale of spirit or fermented liquor or intoxicating drugs shall for every such offence be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both

For conniving at illicit manufacture or sale of spirit, etc

(*2*) Any person invested with local jurisdiction who authorizes or connives at the illegal sale of any spirit fermented liquor or intoxicating drug within the local limits of such jurisdiction shall be punished with fine which may extend to five hundred rupees

54. Any Police officer who, without lawful excuse, neglects or refuses to aid an Excise officer as required by section 43, and any officer in charge of a police station who, on application made by an Excise officer desiring to act under section 38, fails to attend a search himself or to depute a subordinate officer of the required rank, shall be punished with fine which may extend to five hundred rupees

For police neglecting *to aid Excise* officers

55 Any Excise-officer who—

For vexatious search or seizure

(*a*) without reasonable grounds of suspicion searches, or causes to be searched, any place, or

(*b*) vexatiously and unnecessarily seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or

(*c*) vexatiously and unnecessarily arrests any person, or

(*d*) commits any other excess not required for the execution of his duty,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both

For delay in reporting arrest, etc., or in taking person arrested to Magistrate.

56. Any Excise-officer who, in contravention of section 41 or section 42, neglects to report the particulars of an arrest, seizure or search, or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Prosecutions restricted.

57. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, 45, 46, 47, 48, 49, 51, 52 and 53, except on the complaint or report of the Collector or an Excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

Confinement in what jail.

58. Every person imprisoned for an offence under section 47 or section 52 shall be confined in the civil jail, and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Attempts and abetment.

59. Whoever attempts to commit any offence punishable under this Act or abets, within the meaning of the[1] Indian Penal Code, the commission of any such offence shall be punished with the punishment provided for such offence. XL

Disposal of fines, etc., as rewards.

60. Any Magistrate before whom any person is convicted of any offence under sections 45, 46, 47, 48, 49, 51 or 53, may award to any person who has contributed in any way to such conviction, the whole or any portion of any fine imposed upon the offender and paid by him or realized from his property.

Magistrate to pass order of confiscation.

61. Any article liable to confiscation under this Act may, on the application of an Excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

CHAPTER VIII.

MILITARY CANTONMENTS.

Manufacture and sale of spirits, etc., in military cantonments.

62. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall be granted, nor shall the fees leviable on licenses for the retail sale of such spirit or liquor, or the right to manufacture such spirit or liquor be let in farm, unless with the knowledge and consent of the Commanding Officer; and upon his requisition any such license which has been granted,

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[1] Genl. Acts, Vol. I.

either by the Collector or by a farmer, within such distance or limits shall be immediately cancelled

63. In all other respects the provisions of this Act shall have effect within such limits or distance Application of Act to military cantonments

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CHAPTER IX

MISCELLANEOUS

64. (1) The Collector shall in all proceedings under this Act be subject to the control of the Commissioner of Revenue, and all orders passed by a Collector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors Collector subject to control of Commissioner

(2) The Chief Revenue authority may revise any order passed by a Collector under this Act or by a Commissioner under this section

65. The Chief Revenue-authority may, from time to time, make rules consistent with this Act— Additional power for Chief Revenue authority to make rules

(a) as to the period for which any license or farm under this Act shall be granted,

(b) as to the fee payable for any such license or farm, and the time or times at which it shall be payable,

(c) as to the security to be given by any licensee or farmer under this Act,

(d) as to the form of any license or farming lease and of the counter part thereof (if any) to be taken from such licensee or farmer and the conditions which may be inserted therein,

(e) as to the disposal of things confiscated under this Act,

(f) as to the duties of Excise-officers, and

(g) to provide generally for carrying out the provisions of this Act.

66. The Local Government may, from time to time by notification in the official Gazette, exempt within any specified local area any specified articles or any specified class of persons from all or any of the provisions of this Act, and may, by like notification, cancel any such exemption Power for Local Government to exempt articles and persons

For delay in reporting arrest, etc., or in taking person arrested to Magistrate.

56. Any Excise-officer who, in contravention of section 41 or section 42, neglects to report the particulars of an arrest, seizure or search, or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Prosecutions restricted.

57. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, 45, 46, 47, 48, 49, 51, 52 and 53, except on the complaint or report of the Collector or an Excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

Confinement in civil jail.

58. Every person imprisoned for an offence under section 47 or section 52 shall be confined in the civil jail, and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Attempts and abetment.

59. Whoever attempts to commit any offence punishable under this Act or abets, within the meaning of the[1] Indian Penal Code, the commission of any XLV such offence shall be punished with the punishment provided for such offence.

Disposal of fines, etc., as rewards.

60. Any Magistrate before whom any person is convicted of any offence under sections 45, 46, 47, 48, 49, 51 or 53, may award to any person who has contributed in any way to such conviction, the whole or any portion of any fine imposed upon the offender and paid by him or realized from his property.

Magistrate to pass order of confiscation.

61. Any article liable to confiscation under this Act may, on the application of an Excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

CHAPTER VIII.

Military Cantonments.

Manufacture and sale of spirits, etc., in military cantonments.

62. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall be granted, nor shall the fees leviable on licenses for the retail sale of such spirit or liquor, or the right to manufacture such spirit or liquor be let in farm, unless with the knowledge and consent of the Commanding Officer; and upon his requisition any such license which has been granted,

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[1] Genl. Acts, Vol. I.

either by the Collector or by a farmer, within such distance or limits shall be immediately cancelled

63. In all other respects the provisions of this Act shall have effect within such limits or distance — Application of Act to military cantonments

CHAPTER IX

MISCELLANEOUS

64. (1) The Collector shall in all proceedings under this Act be subject to the control of the Commissioner of Revenue, and all orders passed by a Collector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors — Collector subject to control of Commissioner

(2) The Chief Revenue authority may revise any order passed by a Collector under this Act or by a Commissioner under this section

65 The Chief Revenue-authority may, from time to time, make rules consistent with this Act— — Additional power for Chief Revenue authority to make rules

(a) as to the period for which any license or farm under this Act shall be granted,

(b) as to the fee payable for any such license or farm, and the time or times at which it shall be payable,

(c) as to the security to be given by any licensee or farmer under this Act,

(d) as to the form of any license or farming lease and of the counterpart thereof (if any) to be taken from such licensee or farmer and the conditions which may be inserted therein,

(e) as to the disposal of things confiscated under this Act,

(f) as to the duties of Excise officers, and

(g) to provide generally for carrying out the provisions of this Act.

66. The Local Government may, from time to time by notification in the official Gazette, exempt within any specified local area any specified articles or any specified class of persons from all or any of the provisions of this Act, and may, by like notification, cancel any such exemption — Power for Local Government to exempt articles and persons

For delay in reporting arrest, etc., or in taking person arrested to Magistrate.

56. Any Excise-officer who, in contravention of section 41 or section 42, neglects to report the particulars of an arrest, seizure or search, or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Prosecutions restricted.

57. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, 45, 46, 47, 48, 49, 51, 52 and 53, except on the complaint or report of the Collector or an Excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

Confinement in what jail.

58. Every person imprisoned for an offence under section 47 or section 52 shall be confined in the civil jail, and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Attempts and abetment.

59. Whoever attempts to commit any offence punishable under this Act or abets, within the meaning of the[1] Indian Penal Code, the commission of any XL
such offence shall be punished with the punishment provided for such offence.

Disposal of fines, etc., as rewards.

60. Any Magistrate before whom any person is convicted of any offence under sections 45, 46, 47, 48, 49, 51 or 53, may award to any person who has contributed in any way to such conviction, the whole or any portion of any fine imposed upon the offender and paid by him or realized from his property.

Magistrate to pass order of confiscation.

61. Any article liable to confiscation under this Act may, on the application of an Excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

CHAPTER VIII.

MILITARY CANTONMENTS.

Manufacture nd sale of rits, etc., ilitary antonments.

62. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall be granted, nor shall the fees leviable on licenses for the retail sale of such spirit or liquor, or the right to manufacture such spirit or liquor be let in farm, unless with the knowledge and consent of the Commanding Officer; and upon his requisition any such license which has been granted,

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[1] Genl. Acts, Vol. I.

either by the Collector or by a farmer, within such distance or limits shall be immediately cancelled

63. In all other respects the provisions of this Act shall have effect within such limits or distance

Application of Act to military cantonments

CHAPTER IX

MISCELLANEOUS

64. (1) The Collector shall in all proceedings under this Act be subject to the control of the Commissioner of Revenue, and all orders passed by a Collector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors

Collector subject to control of Commissioner

(2) The Chief Revenue authority may revise any order passed by a Collector under this Act or by a Commissioner under this section

65 The Chief Revenue-authority may, from time to time, make rules consistent with this Act—

Additional power for Chief Revenue-authority to make rules.

(a) as to the period for which any license or farm under this Act shall be granted,

(b) as to the fee payable for any such license or farm, and the time or times at which it shall be payable,

(c) as to the security to be given by any licensee or farmer under this Act,

(d) as to the form of any license or farming lease and of the counter-part thereof (if any) to be taken from such licensee or farmer and the conditions which may be inserted therein,

(e) as to the disposal of things confiscated under this Act;

(f) as to the duties of Excise officers, and

(g) to provide generally for carrying out the provisions of this Act.

66. The Local Government may, from time to time by notification in the official Gazette, exempt within any specified local area any specified article or any specified class of persons from all or any of the provisions of this Act and may, by like notification, cancel any such exemption.

[illegible]

THE SCHEDULE.

(See section 2.)

Year.	No.	Title or subject.	Extent of repeal.
1881	XII	The Excise Act, 1881	The whole.
1885	VI	Amending the Excise Act, 1881	Ditto.
"	IX	Amending the Excise Act, 1881, and other Acts.	So much as relates to the Excise Act, 1881.
1887	II	Ditto	Ditto.
1888	XVIII	Financial Commissioner, Burma	So much of section 7 and the schedule as relates to the Excise Act, 1881.
1889	XIII	The Cantonments Act, 1889	So much of section 2 and the schedule as relates to the Excise Act, 1881.
1890	XIII	Amending the Excise Act, 1881, and other Acts.	Sections 2 to 5 (both inclusive).
"	XX	The North-Western Provinces and Oudh Act, 1890.	Section 43.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to the Excise Act, 1881.
1893	X	Amending the Excise Act, 1881	The whole.

REGULATION VII OF 1874.

PUNJAB FRONTIER JAGIR REVENUE COLLECTION REGULATION, 1874.

[*16th January, 1875.*]

WHEREAS it is expedient to permit certain assignees of land-revenue in the Trans-Indus districts of the Punjab to continue to collect the land-revenue in kind instead of in cash :

And whereas a draft of the following Regulation, together with the reasons for proposing the same, has been proposed to the Governor General in Council by His Honour the Lieutenant-Governor of the Punjab and has been considered and approved by the Governor General in Council, such Regulation is now published for general information, as having the force of law under Statute 33 of Victoria, Chapter 3, section 1 :—

1. This Regulation may be called the "Punjab Frontier Jagir Revenue Collection Regulation, 1874." It extends to the districts of Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan.

2 The said Lieutenant-Governor[1] may by order permit any assignee of land-revenue in any part of the above named districts to collect the whole or any specified part of the land revenue assigned to him in kind instead of in cash from the proprietary cultivators in his jagir estates, provided that such assignee of land revenue has heretofore been permitted to collect in kind the whole or such part as aforesaid of the said revenue

3. The permission mentioned in the last section may be granted irrespective of the acquiescence of the said proprietary cultivators But the share of the produce so to be collected by the jagirdar shall be specified by the order granting the permission and shall be the estimated equivalent of the cash assessment fixed on the principles of assessment of the land-revenue prescribed for the time being in the districts above-named

4 The said Lieutenant Governor[1] may at any time at his discretion cancel any permission granted under section 2

5. No Court shall take cognizance of any claim to set aside any order for the time being in force permitting an assignee of land revenue to collect revenue in kind, or specifying the share of the crop which he may collect as such assignee

THE BRITISH BALUCHISTAN FOREST REGULATION, 1890

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7 Penalty for trespass or damage in State forests.
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[1] The reference to the Lieutenant Governor is to be construed as a reference to the Chief Commissioner of British Baluchistan, see Schedule I of Regulation 2 of 1913 infra p 209

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45 [*Repealed*]
46 [*Repealed*]
47 [*Repealed*]

REGULATION No. V OF 1890

[*7th June, 1890*]

A Regulation to declare the law relating to forests in British Baluchistan and amend the *British Baluchistan Laws*[1] *and Civil Justice*[2] *Regulations, 1890*

WHEREAS it is expedient to declare the law relating to forests in British Baluchistan and amend the *British Baluchistan Laws*[1] *and Civil Justice*[2] *Regulations, 1890*, It is hereby enacted as follows —

CHAPTER I

PRELIMINARY

1. (*1*) This Regulation may be called the British Baluchistan Forest Regulation, 1890, and Title and extent.

(*2*) It extends to the territories for the time being administered by the Chief Commissioner of British Baluchistan

[1] The British Baluchistan Laws Regulation, 1890, has been *repealed by the* British Baluchistan Laws Regulation, 1913 (2 of 1913) *infra* p 209

[2] The British Baluchistan Civil Justice Regulation 1890 (*3 of 1890*), was repealed by the British Baluchistan Civil Justice Regulation 1896 (9 of 1896) s 2 printed *infra*

Provided that the Chief Commissioner may, by notification in the Gazette of India, exempt any place in those territories from the operation of the whole or any part of this Regulation, but not so as to affect anything done or any offence committed, or any fine or penalty incurred, or any proceedings commenced in such place before such exemption.

Definitions. **2.** In this Regulation, unless there is something repugnant in the subject or context,—

(*1*) "Deputy Commissioner" means the chief executive Revenue-officer of the district:

(*2*) "State forest" means any land which may be constituted a State forest under this Regulation:

(*3*) "Forest-officer" means any person appointed, by name or as holding an office, by or under the orders of the Governor General in Council or the Chief Commissioner, to be Chief Forest-officer or a Deputy Conservator, Assistant Conservator, Sub-Assistant Conservator, Forest-ranger, Forester or Forest-guard, or to discharge any function of a Forest-officer under this Regulation or any rule thereunder:

(*4*) "Chief Forest-officer" means the Chief Forest-officer in British Baluchistan:

(*5*) "tree" includes palms, bamboos, stumps, brushwood and canes:

(*6*) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not:

(*7*) "forest-produce" includes—

(*a*) the following, whether found in, or brought from, a forest or not, that is to say:—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams; and

(*b*) the following when found in, or brought from, a forest, that is to say:—

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,

(ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(iii) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(iv) peat, surface-soil, rock and minerals (including limestone, laterite, mineral oils and all products of mines or quarries)

(*8*) "forest offence" means an offence punishable under this Regulation

(*9*) "cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts fillies, mules, bulls, bullocks, cows, heifers, asses, pigs, rams, ewes, sheep, lambs, goats and kids and

(*10*) "Magistrate" means a Magistrate of the first or second class, and includes a Magistrate of the third class when he is specially empowered by the Chief Commissioner to try forest offences

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CHAPTER II

STATE FORESTS

Constitution of State forests

3. (*1*) The Chief Commissioner may, by notification in the Gazette of India, declare any woodland, permanent grazing-ground or other land which is the property of the Government to be a State forest from the date to be fixed in the notification

(*2*) The notification shall specify as nearly as possible the situation and limits of the land in respect of which the declaration is made, and from the date fixed therein the said land shall be deemed to be a State forest

(*3*) The Deputy Commissioner shall, before that date, cause a translation of the notification in the language of the country to be published in the town and villages in the neighbourhood of the land, and in any other villages of which the residents have been accustomed to graze their flocks in, or in the vicinity of, the land

Demarcation of State forests

4 Whenever a State forest is not bounded by a road, stream or other existing well defined boundary-mark, it shall be demarcated by clear lines or in such other manner as the Chief Commissioner may direct

Bar of acquisition of rights

5 No right of any description adverse to the Government shall be acquired in or over a State forest by lapse of time or otherwise than under a grant or contract in writing made by, or on behalf of, the Government

Power to close roads and pathways

6. (*1*) In any State forest the Chief Forest-officer may from time to time, with the previous sanction of the Chief Commissioner, determine what roads and pathways shall be authorised for public traffic, and cause all other roads and pathways to be closed either permanently or for a time only.

Provided that the Chief Commissioner may, by notification in the Gazette of India, exempt any place in those territories from the operation of the whole or any part of this Regulation, but not so as to affect anything done or any offence committed, or any fine or penalty incurred, or any proceedings commenced in such place before such exemption.

Definitions. 2. In this Regulation, unless there is something repugnant in the subject or context,—

(1) "Deputy Commissioner" means the chief executive Revenue-officer of the district:

(2) "State forest" means any land which may be constituted a State forest under this Regulation:

(3) "Forest-officer" means any person appointed, by name or as holding an office, by or under the orders of the Governor General in Council or the Chief Commissioner, to be Chief Forest-officer or a Deputy Conservator, Assistant Conservator, Sub-Assistant Conservator, Forest-ranger. Forester or Forest-guard, or to discharge any function of a Forest-officer under this Regulation or any rule thereunder:

(4) "Chief Forest-officer" means the Chief Forest-officer in British Baluchistan:

(5) "tree" includes palms, bamboos, stumps, brushwood and canes:

(6) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not:

(7) "forest-produce" includes—

(a) the following, whether found in, or brought from, a forest or not, that is to say:—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams; and

(b) the following when found in, or brought from, a forest, that is to say:—

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,

(ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(iii) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(iv) peat, surface soil, rock and minerals (including limestone, laterite, mineral oils and all products of mines or quarries)

(8) "forest offence" means an offence punishable under this Regulation

(9) "cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts fillies, mules, bulls, bullocks, cows, heifers, asses pigs, rams, ewes, sheep, lambs goats and kids and

(10) "Magistrate" means a Magistrate of the first or second class, and includes a Magistrate of the third class when he is specially empowered by the Chief Commissioner to try forest offences

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CHAPTER II

STATE FORESTS

3. (1) The Chief Commissioner may, by notification in the Gazette of India, declare any woodland, permanent grazing-ground or other land which is the property of the Government to be a State forest from the date to be fixed in the notification — *Constitution of State forests*

(2) The notification shall specify as nearly as possible the situation and limits of the land in respect of which the declaration is made, and from the date fixed therein the said land shall be deemed to be a State forest

(3) The Deputy Commissioner shall, before that date, cause a translation of the notification in the language of the country to be published in the town and villages in the neighbourhood of the land, and in any other villages of which the residents have been accustomed to graze their flocks in, or in the vicinity of, the land

4 Whenever a State forest is not bounded by a road, stream or other existing well-defined boundary-mark, it shall be demarcated by clear lines or in such other manner as the Chief Commissioner may direct — *Demarcation of State forests*

5. No right of any description adverse to the Government shall be acquired in or over a State forest by lapse of time or otherwise than under a grant or contract in writing made by, or on behalf of, the Government — *Bar of acquisition of rights*

6. (1) In any State forest the Chief Forest-officer may from time to time, with the previous sanction of the Chief Commissioner, determine what roads and pathways shall be authorised for public traffic, and cause all other roads and pathways to be closed either permanently or for a time only. — *Power to close roads and pathways*

(2) The Chief Forest-officer shall cause public notice to be given of the closing of any existing road or pathway.

Penalty for trespass or damage in State forests.

7. Any person who in a State forest—

(a) trespasses, or pastures cattle or permits cattle to trespass, off any road or pathway authorised for public traffic, or

(b) causes any damage by negligence in felling any tree, or cutting or dragging any timber, or

(c) lops, notches, strips off the leaves from, or otherwise damages, any tree, or

(d) hunts, shoots, fishes, poisons water or sets traps or snares,

shall be punished with fine which may extend to fifty rupees, or, when the damage resulting from his offence amounts to more than twenty-five rupees, to double the amount of such damage.

Acts prohibited in State forests.

8. Any person who—

(a) sets fire to a State forest, or

(b) in contravention of any rule made by the Chief Commissioner, kindles any fire or leaves any fire burning in such manner as to endanger a State forest,

or who in a State forest—

(c) kindles, keeps or carries any fire except at such seasons, and in such manner, as a Forest-officer specially empowered in this behalf may from time to time notify, or

(d) fells, girdles, marks, taps, strips off the bark from, or uproots or burns, any tree, or

(e) quarries stone, burns lime or charcoal, or collects, subject to any manufacturing process or removes any forest-produce, or

(f) clears, cultivates or breaks up any land for cultivation or any other purpose,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and shall also be liable to pay such sum as compensation for damage done to the forest as the convicting Magistrate may direct.

ptions m prohibitions in sections 7 and 8.

9. (1) Nothing in section 7 or section 8 shall be deemed to prohibit any act done—

(a) with the permission of a Forest-officer specially empowered to give such permission, or

(b) in pursuance of any permission granted by the Chief Commissioner, or

(c) in accordance with any rule made by the Chief Commissioner, [1][subject to the control] of the Governor General in Council

(2) The permission of the Forest-officer referred to in sub section (1), clause (a), shall be in writing, and shall only authorise the doing of some particular act on some particular occasion

(3) The permission referred to in sub-section (1), clause (b), may be a general permission to a person to pasture his cattle, or to collect and remove any forest produce for the use of himself and his family but not for the purposes of trade

(4) The rules referred to in sub section (1), clause (c), may be applied by the Chief Commissioner, by notification in the Gazette of India, to all or any State forests, or to any part of a State forest, and may, with respect thereto—

(i) regulate the cutting sawing, conversion and removal of trees and timber, the cutting of grass and pasturing of cattle, and the collection and removal of forest-produce,

(ii) regulate the quarrying of stone, the prospecting for, and extracting of, oil the boiling of cutch, and the burning of lime or charcoal,

(iii) regulate hunting, shooting, fishing and setting traps or snares,

(iv) prescribe, or authorise any Forest-officer to prescribe, subject to the control of the Chief Commissioner, the fees, royalties or other payments for timber or other forest-produce, and the mode in which such fees, royalties or other payments shall be levied, whether in transit, or partly in transit, or otherwise

(5) In making any such rule the Chief Commissioner may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing breach with a further fine which may extend to five rupees for every day after the first during which the breach continues

(6) The Chief Commissioner may cancel any permission given by a Forest-officer or withdraw any permission granted by himself and may, by notification in the Gazette of India, cancel or modify, [1][subject to the control] of the Governor General in Council, all or any rules made under this section

Power to declare forest to be no longer State forest

10. (1) The Chief Commissioner [1][subject to the control] of the Governor General in Council, may, by notification in the Gazette of India, direct that, from a date fixed by such notification, any State forest or any portion thereof shall cease to be a State forest

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[1] These words were substituted for the words "with the previous sanction" by Regulation V of 1912, s. 2, infra

pass issued by a Forest officer whom the Chief Forest-officer has duly authorised in that behalf or by the owner of the land, as the case may be

(2) Such pass shall state the quantity and kind of timber or other forest-produce so taken, and the marks, if any, which it bears

16. Any person who contravenes the provisions of section 14 or section 15 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both — Penalty for breach of section 14 or section 15

17. A general exemption from the operation of section 14 or section 15 or both sections,— — Power to exempt from operation of section 14 or section 15

(*a*) with respect to any class of timber or other forest produce, or,

(*b*) with respect to all timber or other forest produce, in favour of the inhabitants of any specified locality,

may be granted by a Forest-officer specially empowered in this behalf

CHAPTER V

CATTLE TRESPASS

18 Cattle trespassing in a State forest shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871,[1] and may be seized and impounded as such by any Forest-officer or Police-officer specially authorised in this behalf by the Deputy Commissioner — Application of Cattle trespass Act, 1871

Provided that it shall be optional with the Forest-officer to proceed against the owner of such cattle under section 7 of this Regulation

19 The Chief Commissioner may, by notification in the Gazette of India, direct that there shall be levied for each head of cattle impounded such fines as he thinks fit, but not exceeding the following, that is to say — — Levy of fines

	R	a
For each elephant . . .	10	0
For each camel or buffalo . . .	2	0
For each horse mare gelding, pony, colt filly, mule, bull, bullock, cow or heifer . . .	1	0
For each calf, ass pig, ram, ewe, sheep, lamb, goat, or kid . .	0	8

CHAPTER VI

PENALTIES AND PROCEDURE

20 (*1*) When there is reason to believe that a forest offence has been — Seizure of property

[1] Genl Act, Vol II

liable to confiscation and report thereof to Magistrate.

committed in respect of any timber or other forest-produce, such timber or produce, together with all tools, boats, carts and cattle used in committing such offence, may be seized by any Forest-officer or Police-officer.

(2) Every officer seizing property under this section shall place thereon, or on the receptacle (if any) in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the timber or other forest-produce with respect to which such offence is believed to have been committed is the property of the Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Procedure thereupon.

21. Upon the receipt of any such report, the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law.

Confiscation of forest-produce and tools in case of forest-offence

22. (*1*) When any person is convicted of a forest-offence, all timber or other forest-produce in respect of which such offence has been committed, and all tools, boats, carts, cattle and other things used in committing such offence, shall be liable, by order of the convicting Magistrate, to confiscation.

(*2*) Such confiscation may be in addition to any other punishment prescribed for the offence.

Disposal, on conclusion of trial for forest-offence, of forest-produce in respect of which offence was committed.

23. When the trial of any forest-offence is concluded, any timber or other forest-produce in respect of which such offence has been committed shall, if it is the property of the Government, or has been confiscated, be taken possession of by a Forest-officer specially empowered in this behalf, and may, in any other case, be disposed of in such manner as the Court may order.

Procedure when offender is not known or cannot be found.

24. (*1*) When the offender is not known or cannot be found, the Magistrate inquiring into the offence, if he finds that an offence has been committed, may, on application in this behalf, order the property in respect of which the offence has been committed to be confiscated and taken possession of by a Forest-officer specially empowered in this behalf, or to be made over to such Forest-officer or other person as the Magistrate considers entitled to receive the same:

Provided that no such order shall be made till the expiration of one month from the date of the seizure of such property, or without giving the person (if any) claiming any right thereto an opportunity of being heard, and hearing the evidence (if any) which he may produce in support of his claim.

(2) The Magistrate shall either cause a notice of any application under this section to be served upon any person whom he has reason to believe to be interested in the property seized, or publish such notice in such manner as he thinks fit

Procedure as to perishable property seized under section 20

25. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 20 which is subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with the property itself if it had not been sold

Appeal from orders under sections 22, 23 and 24.

26. Any person claiming to be interested in property seized under section 20 may, within one month from the date of any order passed by a Magistrate under section 22, section 23 or section 24, present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final

Vesting of confiscated property in Government

27. When an order for the confiscation of property has been passed under section 22 or section 24, and no appeal from such order has been presented within the period prescribed by section 26, or when, on an appeal being presented, the appellate Court confirms such order in respect of the whole or a portion of the property, such property or portion, as the case may be, shall vest in the Government free from all incumbrances

Saving of power to release property seized

28. Nothing hereinbefore contained shall be deemed to prevent any officer specially empowered in this behalf from directing at any time the immediate release of any property seized under section 20 and the withdrawal of any charge made in respect of such property

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks

29. Whoever, with intent to cause damage or injury to the public or to
860 any person, or to cause wrongful gain as defined in the Indian Penal Code,—

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person, or

(*b*) unlawfully affixes to any timber or standing tree a mark used by Forest-officers, or

(*c*) alters, defaces or obliterates any such mark placed on any timber or standing tree by or under the authority of a Forest officer, or

(*d*) alters moves destroys or defaces any boundary mark of any State forest,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both

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[1] Genl. Acts Vol I

Power to arrest without warrant.

30. (*1*) Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest-offence, if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(*2*) Every officer making an arrest under sub-section (*1*) shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or to the officer in charge of the nearest police-station.

Punishment for wrongful seizure or arrest.

31. (*1*) Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Regulation, or who vexatiously and unnecessarily arrests any person, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) Any fine so imposed or any portion thereof shall, if the convicting Magistrate so directs and the fine or portion is recovered, be given, subject to the direction in the last paragraph of section 515 of the Code of Criminal Procedure, 1882,[1] as compensation to the person aggrieved by such seizure or arrest. X of

Power to prevent commission of offence.

32. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to compound offences.

33. (*1*) The Chief Commissioner may, by notification in the Gazette of India, empower a Forest-officer, by name or as holding an office,—

(*a*) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 29 or section 31, a sum of money by way of compensation for the offence which such person is suspected to have committed, and,

(*b*) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(*2*) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be dis-

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[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898), s. 545 (*2*). Genl. Acts, Vol. V. The Code was extended to British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913) *infra*, p. 209.

charged, the property, if any, seized shall be released, and no further proceeding shall be taken against such person or property

(3) A Forest officer shall not be empowered under this section unless he is a Forest officer of a rank not inferior to that of a Forest-ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under sub-section (1), clause (a) shall in no case exceed the sum of fifty rupees

Presumption as to ownership of forest produce by Government

34. When, in any proceedings taken under this Regulation, or in consequence of anything done under this Regulation, a question arises as to whether any timber or other forest produce is the property of the Government, such timber or produce shall be presumed to be the property of the Government until the contrary is proved

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CHAPTER VII

FOREST-OFFICERS

Conferment of powers on Forest officers

35. (1) The Chief Commissioner may invest any Forest Officer, by name or as holding an office, with all or any of the following powers, that is to say —

(a) the powers of a Civil Court to compel the attendance of witnesses and the production of documents,

(b) power to issue search-warrants under the Code of Criminal Procedure, 1882[1],

(c) power to hold inquiries into forest offences, and in the course of such inquiries to receive and record evidence,

(d) power to notify the seasons and manner in which fire may be kindled, kept or carried in a State forest,

(e) power to give the permission referred to in section 9, sub section (1), clause (a),

(f) power to grant general exemptions under section 17,

(g) power to take possession of property under sections 23, 24 and 42,

(h) power to direct the release of property and withdrawal of charges under section 28,

and may withdraw any powers so conferred

(2) Evidence recorded under clause (c) of sub-section (1) shall be admissible in any subsequent trial of the alleged offender before a Magistrate

[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898) (Vol

Provided that it has been taken in the presence of the accused person and recorded in the manner provided by section 355, section 356 or section 357 of the Code of Criminal Procedure, 1882.[1] X of

Forest-officers deemed public servants.

36. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.[2] XLV

Indemnity for acts done in good faith.

37. No suit or criminal prosecution shall lie against any public servant for anything done or omitted by him in good faith under this Regulation.

Forest-officers not to trade.

38. Except with the permission in writing of the Chief Commissioner, no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease or mortgage of any forest, or in any contract for working any forest, whether in British or foreign territory.

CHAPTER VIII.

Miscellaneous.

Additional power to make rules.

39. The Chief Commissioner may make rules consistent with this Regulation—

(*a*) to declare by what Forest-officers or class of Forest-officers the powers or duties conferred or imposed by or under this Regulation on a Forest-officer shall be exercised or performed,

(*b*) to regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Regulation or from the public treasury, and

(*c*) generally, to carry out the provisions of this Regulation.

Persons bound to give information and assistance to Forest-officer and Police-officer.

40. Every person who is permitted by a Forest-officer, or to whom permission has been granted by the Chief Commissioner, to pasture cattle in, or to collect and remove any forest-produce from, a State forest, and

every person who is employed by any such person in such a forest, and

every person in any village contiguous to such a forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish, without unnecessary delay, to the nearest Forest-officer or Police-officer any information which he may possess respecting the occurrence of a fire in or near such a forest, or the commission of, or intention to

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[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898). Genl. Acts, Vol. V.

[2] Genl. Acts, Vol. I.

commit, any forest-offence, and shall assist any Forest officer or Police-officer demanding his aid—

(a) in extinguishing any fire occurring in such a forest,

(b) in preventing any fire which may occur in the vicinity of such a forest, from spreading to such a forest,

(c) in preventing the commission in such a forest of any forest-offence and,

(d) when there is reason to believe that any such offence has been committed in such a forest, in discovering and arresting the offender

Recovery of fines and other moneys

41 All money, other than fines, payable to the Government under this Regulation or under any rule thereunder, or on account of the price of any timber or other forest produce or of expenses incurred in the execution of this Regulation in respect of such timber or produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

Lien on forest produce for such money

42 (1) When any such money is payable for, or in respect of, any forest produce, the amount thereof shall be deemed to be a first charge on such produce, and the produce may be taken possession of by a Forest-officer specially empowered in this behalf and may be retained by him until the amount has been paid

(2) If the amount is not paid when due, the Forest officer may sell the produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount

(3) The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to the Government

Irresponsibility of Government and its officers for loss of, or damage to, certain forest-produce.

43. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a station established under section 13, or while detained elsewhere for the purposes of this Regulation, and no Forest-officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously or fraudulently

Recovery of penalties due under bond

44. When any person, in compliance with any rule under this Regulation, binds himself by any instrument to perform any duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the [1] Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue

[1] Genl Acts, Vol II The Act is in force in British Baluchistan by virtue of the British Baluchistan Laws Regulation, 1913 (2 of 1913) infra, p 205

CHAPTER IX.

I of 1890. Amendment of the *British Baluchistan Laws and Civil Justice*[1] *Regulations, 1890.*

45. *Amendment of s. 4 of the British Baluchistan Laws Regulation, 1890.* [*Rep. British Baluchistan Laws Regulation, 1913 (II of 1913.)*]

46. *Repeal of words in s. 7 of the British Baluchistan Laws Regulation, 1890.* [*Rep. British Baluchistan Laws Regulation, 1913 (II of 1913)*].

47. *Substitution of new section for section 71 of Regulation III of 1890.* [*Rep. British Baluchistan Civil Justice Reg. IX of 1896, s. 2.*]

THE BRITISH BALUCHISTAN CRIMINAL JUSTICE REGULATION, 1896.

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REGULATION No VIII OF 1896

A Regulation to consolidate and amend the law relating to the administration of Criminal Justice in British Baluchistan

[*30th October, 1896*]

WHEREAS it is expedient to consolidate and amend the law relating to the administration of Criminal Justice in British Baluchistan ,

And whereas Her Majesty's Secretary of State for India in Council has sanctioned the exercise by the Chief Court of the Punjab of criminal jurisdiction over European British subjects in British Baluchistan ,

It is hereby enacted as follows —

1. (*1*) This Regulation may be called the British Baluchistan Criminal Justice Regulation, 1896 , and Title and commencement.

(2) It shall come into force at once.

Repeal.

2. (1) The British Baluchistan Criminal Justice Regulation, 1890, and Regulation II of 1893 are repealed. II of

Saving.

(2) But all proceedings commenced, officers appointed or authorized, all jurisdictions and powers conferred, rules made and orders issued under any of the provisions of the said Regulations shall be continued and, as far as may be, be deemed to have been respectively commenced, appointed or authorized, conferred, made and issued under this Regulation, and any enactment or document referring to any of the said provisions shall, as far as may be, be construed to refer to this Regulation or to the corresponding portion thereof.

Application of the Code of Criminal Procedure, 1882.

3. Subject to the modifications set forth in the schedule, the Code of Criminal Procedure, 1882,[1] (hereinafter referred to as "the Code",) shall extend to the whole of British Baluchistan, so far as it can be made applicable in the circumstances for the time being. X of 1

THE SCHEDULE.

(See section 3.)

MODIFICATIONS SUBJECT TO WHICH THE CODE IS TO EXTEND TO BRITISH BALUCHISTAN.

"High-Court." (Section 4, cl. (j).)

1. "High Court" shall mean,—

(i) in reference to proceedings against European British subjects or persons jointly charged with such subjects, the Chief Court of the Punjab; and,

(ii) in reference to proceedings against other persons, the Judicial Commissioner:

Provided that every sentence of death passed or confirmed by the Judicial Commissioner shall be submitted to the Chief Commissioner and shall not be executed unless and until it has been confirmed by the Chief Commissioner who in every case so submitted to him shall exercise all the powers of a High Court described in Chapter XXVII of the Code.

"Pleader." (Section 4, cl. (r).)

2. "Pleader," used with reference to any proceeding in any Court, means a legal practitioner having authority from the Chief Commissioner to act in such proceeding or practise in such Court.

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[1] This reference must be construed as referring to the corresponding provisions of the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V. The Code has been extended to British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), *infra*, p. 209, subject to the provisions of this Regulation construed as mentioned above.

3. (*1*) Each district shall be a Sessions Division, the Court of the District Magistrate shall be the Court of Session for that Division, and the District Magistrate shall be the Judge of that Court. Court of Session (Sections 7, 9 and 193 and Chapter XXIII.)

(*2*) As Judge of a Court of Session a District Magistrate may take cognizance of any offence as a Court of original jurisdiction without the accused person being committed to him by a Magistrate, and, when so taking cognizance of an offence, shall, subject to the provisions of this Regulation, follow the procedure prescribed for the trial of warrant cases by Magistrates.

(*3*) A trial before a Court of Session may be without jury or aid of assessors.

4. Notwithstanding anything in Act V of 1861,[1] or in any other enactment for the time being in force, the Chief Commissioner may confer on any Police-officer all or any of the powers conferred or conferable by or under the Code on any Magistrate, in regard to particular cases, or to a particular class or particular classes of cases or to cases generally. Conferment of magisterial powers on police officers (Section 14.)

5. (*1*) Magistrates described in the first column of the following table shall have the powers severally specified against them in the second column thereof, without being further empowered in that behalf :— Powers of Magistrates (Sections 36, 37 and 260.)

Magistrates	Powers
1	2
Magistrates of the first class	To require security for good behaviour, section 110.
	To make orders as to local nuisances, section 133.
Magistrates of the first or second class	To make orders prohibiting repetition of nuisances, section 143.
	To make orders under section 144.
Magistrates of the first, second or third class	To entertain complaints, section 191.[2]
	To receive police reports, section 191.[2]
	To entertain cases without complaint, section 191.[2]
Sub-divisional Magistrates .	To call for records, section 435.

[1] Genl. Acts, Vol. I.

[2] *See* now s. 190 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

(2) The Chief Commissioner may empower a Magistrate of any class to try in a summary way under Chapter XXII any offence mentioned in section 260 which under section 29 he is competent to try.

Power to any Police-officer to act under section 55. (Section 55.)

6. Any Police-officer may exercise the powers conferred by section 55 on an officer in charge of a police-station.

Detention by police. (Sections 57 and 61.)

7. (1) Notwithstanding anything in section 57 or section 61, an officer in charge of a police-station may detain a person arrested without warrant so long as in all the circumstances of the case is reasonable :

(2) But when the officer of his own authority detains any such person in custody for a longer period than twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the nearest Magistrate's Court, he shall state in the report prescribed in section 62 his reasons for prolonging the detention of the person, and, where the detention extends beyond three days, shall submit further reports of the reasons therefor at such intervals as the Magistrate to whom the report under section 62 was submitted may by general or special order direct.

Complement to British Baluchistan Laws Regulation, 1890, s. 4, cl. (2.) (Section 162.)

8. Nothing in the first paragraph of section 162 shall be construed to apply to a statement made to a Police-officer who is a Magistrate.

State offences and false evidence by person to whom pardon has been tendered. (Sections 196 and 339.)

9. A prosecution for an offence against the State or for the offence of giving false evidence in respect of a statement made by a person who has accepted a tender of pardon, may be entertained upon complaint made by order of, or under authority from, the District Magistrate.

Tender of pardon. (Section 337.)

10. A Magistrate tendering a pardon to an accomplice under section 337 need not record his reasons for so doing, and, notwithstanding anything in that section, may try the case himself.

Recording of evidence. (Chapter XXV.)

11. In inquiries and trials (other than summary trials) by or before a Magistrate or Court of Session, it shall be sufficient if the Magistrate or Court makes a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

Execution of sentence of imprisonment for six months or less. (Section 383.)

12. In the case of a sentence of imprisonment for a term not exceeding six months, the Court passing the sentence may forward the accused with a warrant to the District Magistrate, who may in his discretion either cause the prisoner to be employed in any part of the district as a labourer on roads or other works of public utility, or forward him to the nearest jail.

13. (*1*) A person convicted on a trial held by a District Magistrate may appeal to the High Court. Appeal to High Court and limitation therefor (Section 408

(*2*) Notwithstanding anything in the Indian Limitation Act, 1877,[1] the period of limitation for an appeal to the High Court shall, except in the cases provided for by No 150 and No 157 of the second schedule to that Act, be thirty days from the date of the conviction

14. (*1*) Notwithstanding anything in this schedule or in the Code, an appeal shall not lie— Restrictions on appeal (Sections 413 and 414)

(*a*) in a case in which a Magistrate of the first class passes a sentence of imprisonment for a term not exceeding six months only, or of fine not exceeding five hundred rupees only, or of whipping only or

(*b*) in a case in which a District Magistrate or Court of Session passes a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding one thousand rupees, or of whipping, or of all or any of those punishments combined

(*2*) The Governor General in Council may at any time, by notification in the Gazette of India, direct that this section shall cease to be in force in any district with effect from a date to be specified in the notification

15. In any case in which an appeal lies, the Appellate Court may enhance any punishment which has been awarded Enhancement of punishment on appeal (Section 423

Provided that, if the appeal is from the sentence of a Magistrate of any class, the Appellate Court shall not inflict a greater punishment than might have been inflicted by a Magistrate of the first class

16. Where an offence referred to in section 195 is committed before a Judge of a Criminal Court or Magistrate, or in contempt of his authority, or is brought to his notice in the course of a judicial proceeding, he may himself try for the offence the person accused thereof Contempt and offences against public justice or relating to documents (Section 487

17. Notwithstanding anything in section 495, a Court may allow any Police-officer to conduct a prosecution Conduct of prosecutions (Section 495)

18. Notwithstanding anything in section 526, the High Court may, of its own motion or on any representation, whether supported by affidavit or not, by special or general order, direct that any criminal case or appeal or class of criminal cases or appeals, be transferred to, and tried before, itself, or that an accused person, or accused persons, be committed for trial to itself Transfer of cases (Section 526)

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[1] *See* now the Indian Limitation Act 1908 (9 of 1908), Genl Acts, Vol VI This Act is in force in British Baluchistan in virtue of Regulation 2 of 1913, *infra*, p 209

Orders not reversible on technical grounds alone. (Section 537.)

19. Notwithstanding anything in the Code, a finding, sentence or order shall not be reversed or altered on appeal or revision on account of any irregularity of procedure, unless the irregularity has occasioned a failure of justice.

Process and copying fees, and admission of pleaders and petition-writers. (Section 553.)

20. (*1*) With the previous sanction of the Chief Commissioner, rules may be made under section 553,[1] clause (*c*), for the regulation of the following among other matters, namely:—

(*a*) the fees to be paid for processes;

(*b*) the fees to be paid for copies and inspection of records;

(*c*) the qualifications to be possessed by, and the conditions to be imposed on, legal practitioners applying to the Chief Commissioner for authority to practise in Criminal Courts, and the fees, if any, to be paid for the concession of such authority; and

(*d*) the licensing of petition-writers and regulation of their conduct.

(*2*) Whoever breaks any rule under clause (*d*) of sub-section (*1*) may, subject to the provisions of any rule under that clause, be suspended or removed from practice or be punished with fine which may extend to fifty rupees.

Saving of provisions relating to European British subjects.

21. Nothing in this schedule with respect to procedure in inquiries or trials, or with respect to sentences or appeals therefrom or the enhancement or execution thereof, shall be construed to affect the Code in its application to European British subjects or persons jointly charged with such subjects.

THE BRITISH BALUCHISTAN CIVIL JUSTICE REGULATION, 1896.

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[1] *See* now s. 554, clause (*c*) of the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

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REGULATION No IX OF 1896

A Regulation to consolidate and amend the law relating to the administration of Civil Justice in British Baluchistan

[*30th October, 1896*]

WHEREAS it is expedient to consolidate and amend the law relating to the administration of civil justice in British Baluchistan, It is hereby enacted as follows —

CHAPTER I

PRELIMINARY

1 (*1*) This Regulation may be called the British Baluchistan Civil Justice Regulation, 1896, and Title and commencement

(2) It shall come into force at once

2 (*1*) The Regulations specified in the schedule are repealed to the extent mentioned in the fourth column thereof Repeal

(2) But, subject to the provisions of section 88, all officers appointed or authorized, jurisdictions and powers conferred, rules made and orders issued under any of the provisions so repealed shall be continued and, as far as may be deemed to have been respectively appointed or authorized conferred, made and issued under this Regulation, and any enactment or document referring to any of the said provisions shall, as far as may be, be construed to refer to this Regulation or to the corresponding portion thereof Savings

CHAPTER II

THE COURTS

3 Besides the Courts established under any other enactment for the time being in force, the Civil Courts in British Baluchistan shall be of five grades, namely — Grades of Civil Courts

(*1*) the Court of the Judicial Commissioner,

(*2*) the Court of the Deputy Commissioner,

(*3*) the Courts of the Assistant Commissioner and Extra Assistant Commissioner,

(*4*) the Courts of the Tahsildár and Munsif, and

(*5*) the Court of the Naib-Tahsildár

Appointment of presiding officers.

4. (1) The presiding officers of the Courts of the first, second and third grades shall be appointed and may be removed by the Governor General in Council.

(2) The presiding officers of the Courts of the fourth and fifth grades shall be appointed and may be removed by the Chief Commissioner subject to the control of the Governor General in Council.

(3) Any appointment under this section may be made either by name or by virtue of office.

Number of Courts of second, third, fourth and fifth grades and power to fix local limits of their jurisdiction.

5. (1) The Chief Commissioner may, with the previous sanction of the Governor General in Council, fix and vary the number of Courts of the second, third, fourth and fifth grades.

(2) The Chief Commissioner, by notification in the Gazette of India, may, with the previous sanction of the Governor General in Council, fix and vary the local limits of the jurisdiction of the Courts aforesaid.

Original jurisdiction of Courts.

6. Except as otherwise provided by any other enactment for the time being in force,—

(a) the Court of the Naib-tahsildár shall have jurisdiction to try suits of value not exceeding fifty rupees and of the nature cognizable by a Court of Small Causes established under the Provincial Small Cause Courts Act, 1887[1]; IX of

(b) the Courts of the Tahsildár and Munsif shall have jurisdiction to try original suits of such value, not exceeding one thousand rupees, as the Chief Commissioner may in the case of each Tahsildar or Munsif direct, or if no such direction has been made then original suits of value not exceeding three hundred rupees;

(c) the Courts of the Assistant Commissioner and Extra Assistant Commissioner shall have jurisdiction to try original suits of value not exceeding ten thousand rupees; and

(d) the Court of the Deputy Commissioner, and the Court of any Assistant Commissioner or Extra Assistant Commissioner whom the Chief Commissioner may, by notification in the Gazette of India, specify in this behalf shall have jurisdiction to try original suits without limit as regards the value.

High Court and District Court.

7. (1) Subject to the provisions of this section and of any other enactment for the time being in force, the Court of the Judicial Commissioner shall, for

[1] *See* Genl. Acts, Vol. IV. This Act is in force in British Baluchistan by virtue of Regulation 2 of 1913, *infra*, p. 209.

the purpose of all enactments relating to civil jurisdiction for the time being in force, be deemed to be the High Court for British Baluchistan

(2) The Court of the Deputy Commissioner shall, for the same purposes, be deemed to be the principal Civil Court of original jurisdiction and the District Court for the local area within its jurisdiction

(3) For the purposes of the Indian Divorce Act[1] the Chief Court of the Punjab and the Deputy Commissioner shall be deemed to be the High Court and the District Judge, respectively

Control over Civil Courts

8 (1) The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner

(2) Subject to the general superintendence and control of the Court of the Judicial Commissioner, the Deputy Commissioner shall control all other Civil Courts in the local area within his jurisdiction

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CHAPTER III

CIVIL PROCEDURE

General Rule

Procedure to be observed in Civil Courts

9 Except as otherwise provided by any other enactment for the time being in force, the provisions of this Chapter shall apply to all suits and other proceedings in the Civil Courts of British Baluchistan

Prior Adjudications and Pending Suits

Effect of prior adjudication

10. A Court shall not try any suit in which the matter in issue has been heard and finally decided by a Court of competent jurisdiction in a former suit between the same parties in the same rights, or between parties under whom they, or any of them, claim

Effect of pending suits.

11. A Court shall not try any suit in which the matter in issue is also in issue in another suit between the same parties, or between parties under whom they, or any of them, claim, pending in the same or any other Court, whether superior or inferior, in British India

Appearances, Applications and Acts by Parties

Appearance in person or

12. (1) The Court may in its discretion, for any sufficient reason, permit any appearance, application or act, required to be made or done by a party

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[1] *See* Genl Acts Vol II This Act is in force in British Baluchistan by virtue of the British Baluchistan Laws Regulation, 1913 (2 of 1913) printed, *infra*, p 209

by representative. under this Regulation, to be made or done by the party through an authorized agent, or through a legal practitioner having authority from the Chief Commissioner to plead and act for parties with the permission of the Court under this sub-section.

(2) Permission under this section shall in all cases be granted to persons exempt from personal appearance in Court.

(3) Except with the permission of the Court granted under the foregoing provisions of this section, every appearance, application or act under this Regulation shall be made or done by a party in person.

(4) When the permission mentioned in this section is granted to a party, the agent or legal practitioner must, unless, in the case of a legal practitioner, he is an advocate of a High Court established by Royal Charter or of the Chief Court of the Punjab, be appointed by the party by instrument in writing, and that instrument must be filed in Court.

Withdrawal of permission to appoint representative.

13. In any case in which the Court has permitted a party not being a person exempt from personal appearance in Court to appear by an agent or a legal practitioner, it may, for reasons to be recorded in writing, withdraw the permission, at any stage of the proceedings, and require the party to attend in person.

Consequences of not appearing in person when required.

14. A party required to attend in person under the last foregoing section, and failing so to attend shall be subject to the provisions of this Regulation applicable to parties who do not appear.

Institution of Suits.

Mode of beginning suit.

15. The plaintiff must begin his suit by presenting to the Court a written plaint.

Examination of plaintiff.

16. On a plaint being so presented, the Court shall register the suit and examine the plaintiff, or his agent or legal practitioner, as to the merits of the case.

Summary dismissal of suit.

17. If upon the examination it appears that there is no substantial cause of action, or that the claim is one which from its nature is not a proper subject of litigation in a Civil Court, the Court may dismiss the suit.

Issue of summons.

18. If upon the examination it is found that the plaintiff sets forth a good cause of action, the Court shall issue a summons to the defendant to appear and answer at a certain time and place.

Service of Summons on Defendants.

Mode of service of summons.

19. Service of the summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he appoints in this behalf

and sealed with the seal of the Court, and, when there are more defendants than one, service of the summons shall be made on each defendant

20 Whenever it is practicable, the service shall be on the defendant in person — Service on defendant in person

21. When the defendant cannot be found, the service may be on any adult male member of his family residing with him or, where the defendant is a member of a tribe, on the head of the tribe — Service when defendant cannot be found

22. (1) Where the summons is served on the defendant personally, or on any person on his behalf, the person on whom the service is made shall be required to sign an acknowledgment of service, to be endorsed on the original summons or on a copy thereof under the seal of the Court — Endorsement of summons by person served

(2) If the person refuses to sign the acknowledgment, the service of the *summons* shall nevertheless be held sufficient if it is otherwise proved to the satisfaction of the Court

23. When the defendant cannot be found, and there is no person on whom the service can be made, the service may be effected by posting the copy of the *summons* on the outer door of the house in which the defendant ordinarily resides, if he ordinarily resides at any place within the local limits of the jurisdiction of the Court — Service by posting copy of summons on door of ordinary residence

24. The person serving a summons shall, in all cases in which the *summons* has been served, endorse on the original summons, or on a copy thereof, under the seal of the Court, the time when, and the manner in which, it was served — Endorsement of summons by person serving

25 (1) When a summons is returned to the Court without having been served, if the plaintiff satisfies the Court that there is reasonable ground for believing that the defendant is keeping out of the way for the purpose of avoiding the service of the summons, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the *summons* to be served— — Substituted service when summons is returned unserved.

(a) by posting a copy thereof on some conspicuous place in the court-house and also on the door of the house in which the defendant last resided, if it is known where he last resided, or

(b) in such other manner as the Court thinks proper

(2) A *service* in the manner ordered by the Court under clause (b) of sub-section (1) shall be as effectual as if it had been made in the manner specified in clause (a) of that sub-section

Fixing of time for appearance in case of substituted service.

26. When service is substituted by order of the Court under the last foregoing section, the Court shall fix such time and place for the appearance of the defendant as the case may require.

Service on defendant residing out of jurisdiction and having no agent.

27. If the defendant ordinarily resides beyond the local limits of the jurisdiction of the Court in which the suit is instituted, and has not within those limits an agent empowered to accept the service, the Court shall transmit the summons for service to a Court having jurisdiction at the place where the defendant resides.

Service on defendant residing out of British India and having no agent.

28. (*1*) If the defendant resides out of British India and has not in British India an agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he resides, and be forwarded to him by post or otherwise.

(*2*) If at the time fixed for the hearing of the suit, or at any time subsequent thereto to which the hearing may be adjourned, a defendant to whom a summons has been forwarded under sub-section (*1*) does not appear, the Court may, on the application of the plaintiff, direct that the plaintiff shall be at liberty to proceed with his suit in such manner, and subject to such conditions as the Court thinks fit.

Service on agent in charge of immoveable property.

29. When the suit is for land or other immoveable property, and the summons for any reason cannot be served on the defendant in person, the summons may be served on any agent of the defendant in charge of the land or other property.

Consequences of non-appearance of Parties.

Dismissal of suit on non-appearance of either party.

30. (*1*) If, at the time fixed for the defendant to appear and answer, or at any time subsequent thereto to which the hearing of the suit may be adjourned, neither party appears when called upon by the Court, the suit shall be dismissed.

(*2*) When a suit is dismissed under sub-section (*1*), the plaintiff may bring a fresh suit, or, if within a period of thirty days from the date of the dismissal of the suit he satisfies the Court that there was sufficient cause for his failure to appear, the Court may issue a fresh summons upon the plaint already filed.

Procedure on non-appearance of defendant when summons was duly served.

31. (*1*) If the plaintiff appears and the defendant does not appear, and it is proved to the satisfaction of the Court that the summons was duly served the Court shall proceed to hear the suit *ex parte*.

(2) If the defendant appears at any subsequent time to which the hearing of the suit may be adjourned and assigns good cause for his previous failure to appear, he may, upon such terms as the Court may direct as to payment of costs or otherwise, be heard in answer to the suit in like manner as if he had appeared at the time fixed for his appearance

Procedure o non appear ance of defendant when sum mons was no duly served or not serve in due time

32. (1) If the plaintiff appears and the defendant does not appear, and it is not proved to the satisfaction of the Court that the summons was duly served in any of the modes of service provided by this Regulation, the Court may direct a second summons to the defendant to be issued in any of those modes

(2) If the plaintiff appears, and it is proved to the satisfaction of the Court that the summons was duly served on the defendant but was served on him too late to admit of his appearing of and answering at the time fixed in the summons, the Court shall postpone the hearing of the suit to a future time to be fixed by the Court, and may direct notice of that time to be given to the defendant

Judgment b default against plaintiff not appearing or against defendant on admission.

33 (1) If the defendant appears and the plaintiff does not appear, the Court shall pass judgment against the plaintiff by default, unless the defendant admits the claim, in which case the Court shall pass judgment against the defendant upon the admission

(2) When judgment is passed against a plaintiff by default, he shall be precluded from bringing a fresh suit in respect of the same cause of action.

Consequence of non-appearance of one or more of several plaintiffs.

34. If there are two or more plaintiffs and appearance is made by [illegible] more of them, and not by the other or others, the Court may, at the [illegible] of the plaintiff or plaintiffs appearing, proceed with the suit in the [illegible] as if all the plaintiffs had appeared, and pass such order as is just [illegible] in the circumstances of the case

Consequence of [illegible]

35 If there are two or more defendants and appearance [illegible] more of them and not by the other or others, the Court [illegible] suit to judgment, and shall, at the time of passing [illegible] order with respect to the defendant or defendants by [illegible] been made as is just and proper in the circum[illegible]

36 (1) Where judgment is passed *ex parte* [illegible] apply at any time, not later than thirty [illegible] process for enforcing the judgment [illegible] the judgment was passed, for an order [illegible]

(2) If it is proved to the satisfaction [illegible] not duly served or that the def[illegible]

appearing when the suit was called on for hearing, the Court shall pass an order setting aside the judgment and appoint a time for proceeding with the suit.

Setting aside judgment against plaintiff by default.

37. (1) Where the judgment is passed against a plaintiff by default, he may apply, within thirty days from the date of the judgment, for an order setting it aside.

(2) If it is proved to the satisfaction of the Court that the plaintiff was prevented by sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order setting aside the judgment by default and appoint a time for proceeding with the suit.

Judgment not to be set aside without notice.

38. A judgment shall not be set aside on an application under either of the two last foregoing sections unless notice of the application has been served on the opposite party.

Fixing Issues and Preparations for the Hearing.

Framing of issues.

39. If both parties are present at the time fixed for the defendant to appear and answer or at any time subsequent thereto to which the proceedings are adjourned for the purposes of this section, the Judge shall examine them with a view to ascertaining upon what questions of law and fact the parties are at issue, and, having with his own hand made a note of the examination, shall frame and record the issues of law and fact on which the right decision of the case depends.

Procedure when parties are at issue on a question of fact.

40. (1) If the parties are at issue on a question of fact, the Court shall then further examine them as to the evidence they intend to adduce upon the question, and shall either proceed at once to hear the suit or appoint a time and place for the hearing thereof.

(2) Upon such sums being deposited for the expenses of witnesses, as subject to any rules under this Regulation, the Court thinks reasonable, the Court shall issue such summonses for the attendance of witnesses and the production of documents as the parties may desire.

Service of summons on witnesses.

41. A summons to a witness shall be signed, sealed and served as nearly as may be in the manner provided by this Regulation for the signing, sealing and service of a summons on a defendant.

Arrest of witness neglecting to attend.

42. If a witness on whom a summons has been so served neglects or refuses to appear at the time and place appointed and does not offer reasonable excuse for the neglect or refusal, the Court may issue a warrant to bring the witness before it to give his evidence.

The Hearing

43 (1) At the time for the hearing of the suit, or at some time subsequent thereto to which the hearing may be adjourned, the evidence of the witnesses and of any parties to the suit appearing as witnesses, shall be taken by the Judge orally in open Court and in presence of the parties Mode of taking evidence

(2) Any evidence given in a language not understood by a party to the suit shall be interpreted to that party as the examination proceeds

(3) Each party may examine the opposite party and all witnesses

44 A memorandum of all evidence taken shall be recorded by the Judge with his own hand as the examination proceeds, either in English or in the language prescribed by the Chief Commissioner as the language of the Court, as the Judge thinks fit Recording of evidence

45 At any stage of the suit the Court may examine as a witness any person present in Court or call upon him to produce any document or other thing, or may summon any person to give evidence or produce any document or other thing, if it considers that the evidence of the person or the production of the thing is likely to aid it in the decision of the matters in dispute. Power for Court to examine witness or require production of document

Judgments

46 When the documentary evidence, if any, has been perused, and the witnesses have been examined and the parties heard, the Court shall, either immediately or at some subsequent time, of which due notice shall be given to the parties, deliver its judgment Delivery of judgment.

47 The judgment shall be written by the Judge with his own hand, either in English or in the language prescribed by the Chief Commissioner as the language of the Court, as the Judge thinks fit, and it shall be dated and signed by the Judge at the time it is delivered Judgment to be in writing

48 The judgment shall contain the decision of the Court upon each issue, together with the grounds of the decision, and shall conclude with a decree clearly stating the relief granted or other determination of the suit. Contents of Judgment

Provided that, when the decision upon one or more issues is sufficient for the disposal of the suit, the Court may, in its discretion, abstain from pronouncing any decision upon the remaining issues

49 (1) The decree shall specify the costs payable and the parties by whom they are to be paid Costs.

(2) In determining the amount of costs the Court shall not allow the remuneration of agents or legal practitioners permitted under section 12 to plead or act

Allowance of interest.

50. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order simple interest at such rate as it thinks fit to be paid on the principal sum adjudged from the date of suit to the date of decree in addition to any interest adjudged on the principal sum for any period prior to the date of suit, with further simple interest, at a rate not exceeding six per centum yearly, on the aggregate sum so adjudged and on the cost of the suit from the date of the decree to the date of payment.

Payment of amount of decree by instalments.

51. In a decree for the payment of money the Court may, for any sufficient reason, order that the amount due under the decree shall be paid by instalments with or without interest.

Contents of decree for moveable property.

52. Where in a suit for moveable property the decree is for the delivery of the property, the Court shall fix an amount of money to be paid as an alternative if delivery cannot be made.

Copies of judgment to be furnished to parties.

53. Certified copies of the judgment, and, in cases where the judgment is required to be translated, of the translation thereof, shall be furnished to the parties on their application and on payment by them of the cost of the copies.

Procedure in special cases.

Injunction against waste, damage or alienation of property in dispute.

54. If at any stage of a suit before judgment a Court is satisfied, upon such inquiry as it considers necessary, that any property which is in dispute in the suit is in danger of being wasted, damaged or alienated by a party to the suit, it may, on such terms as may appear to it to be just, issue an injunction to that party commanding him to refrain from the act of waste, damage or alienation, or make such order for the purpose of staying and preventing him from wasting, damaging or alienating the property, or for the care and custody thereof, as it thinks fit.

Injunction against breach of contract or committal of injury.

55. In any suit for restraining the defendant from the committal of any breach of contract or other injury, the Court may at any time after the commencement of the suit, and either before or after judgment, and on such terms as may appear to it to be just, issue an injunction restraining the defendant from the repetition or continuance of the breach of contract or the injury or the committal of any similar breach of contract or injury.

Enfocement of injunctions by attachment of property.

56. In case of disobedience to an injunction issued under either of the two last foregoing sections, the injunction may be enforced by attaching the property of the party to whom the injunction was addressed and retaining it under attachment until he obeys the injunction.

57. The Court may at any time vary or set aside an order made by it under section 54 or section 55, and, if it is satisfied that any such order has been applied for and procured by any party on grounds known to the party to be insufficient, it may award against the party in its decree such amount as it deems a reasonable compensation to the party aggrieved by the order

Power to vary or set aside orders under sections 54 and 55 and to adjudge compensation to party injured.

58 (*1*) If at any hearing of a suit it appears to the Court desirable that any person not already a party to the suit should be made a party thereto, it may direct that the person be made a plaintiff or defendant, as the case may be

Power to add parties

(*2*) Where a person is so made a plaintiff or defendant, the Court shall cause a summons to be served on him in the manner provided by this Regulation for the service of a summons on a defendant

59 Where a suit involves any question regarding succession, inheritance, pre-emption, marriage or caste, or any religious usage or institution, it may be heard with the aid of assessors selected by the Court from the class to which the parties belong

Certain suits triable with the aid of assessors

Miscellaneous

60 Women who, according to the customs and manners of the class to which they belong, ought not to be compelled to appear in public, shall be exempt from personal appearance in Court whether as parties or as witnesses.

Exemption of women from appearance in person

61 The Chief Commissioner may, by notification in the Gazette of India, exempt from personal appearance in Court, whether as a party or as a witness, any person whose rank appears to entitle him to the privilege of exemption, and may, by like notification, withdraw the privilege

Power to Chief Commissioner to exempt from appearance in person.

62. (*1*) All documents admitted as evidence in a suit, other than entries in shop books or other books, shall be filed with the record and shall not be returned to the parties without the written permission of the Court

Filing of documents admitted in evidence

(*2*) A certified copy of any document to be so returned within three months from the date of the disposal of the suit shall be made at the expense of the person applying for the return of the document and be filed with the record

370. (*3*) No fee shall be payable under the Court-fees Act, 1870,[1] in respect of an application for the return of a document, or in respect of a certified copy to be filed with the record, under this section

[1] Genl. Acts, Vol II The Act is in force in British Baluchistan in virtue of the British Baluchistan Laws Regulation, 1913 (2 of 1913) *infra*, p. 209

Mode of admission in evidence of entry in book. **63.** (*1*) When a party desires to put in evidence an entry in a shop-book or other book, he shall produce the book to the Court, together with a copy of the entry on which he relies.

(*2*) The Court shall forthwith mark the entry for the purpose of identification, and, having examined and compared the copy with it, shall file the copy with the record and return the book to the party producing it, unless there seems to the Court to be cause for impounding it.

Execution of Decrees.

Mode of execution of decrees. **64.** (*1*) The Court shall, on application made by the decree-holder in writing, execute its decrees in the following manner, that is to say:—

(*a*) a decree for property in the possession of the judgment-debtor, by giving possession of the property to the decree-holder, or when the property is moveable, and possession of it cannot from any cause be given, by levying in the manner provided by this sub-section for the execution of a decree for money the amount fixed as an alternative under section 52;

(*b*) a decree for partition, by dividing the property and giving the decree-holder possession of his portion;

(*c*) a decree for money, by arresting and imprisoning the judgment-debtor subject to the provisions of the Debtors Act, 1888,[1] or by attaching his property and selling it, or by both means; *VI of 1[...]*

(*d*) a decree for the performance of any act by the judgment-debtor, by arresting and imprisoning him or by attaching his property and retaining it under attachment, or by both means.

(*2*) No person shall be imprisoned in execution of a decree for a longer period than six months in any case, or for a longer period than six weeks if the decree is for a sum of money not exceeding fifty rupees.

(*3*) No property in land shall be sold in execution of any decree without the previous sanction of the Chief Commissioner.

(*4*) In the last foregoing sub-section the word "land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purpose or for purposes subservient to agriculture, or for pasture, and includes the sites of buildings and other structures on such land.

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[1] Repealed by Act 10 of 1914, passed while this Code was in Press.

65. Whenever a person has become liable as surety for the performance of a decree or of any part of a decree, the decree may be executed against him to the extent to which he has rendered himself liable in the same manner as a decree may be enforced against a judgment debtor — Decree against surety

66 When an application is made for the execution of an *ex parte* decree, the Court may in its discretion, before ordering execution require the applicant to give such security as it deems sufficient for compensation for any injury that may be done in the course of the execution, or may issue a notice to the judgment-debtor to show cause why the decree should not be executed — Execution of *ex parte* decrees

Appeal

67 (*1*) A decree or order made in an original suit of value not exceeding fifty rupees by a Tahsildár or Munsif, or in an original suit of value not exceeding one hundred rupees by an Assistant Commissioner or Extra Assistant Commissioner, shall subject to the provisions of this Regulation with respect to revision, be final — Appeals from Courts of Tahsildárs Munsifs Assistant Commissioners and Extra Assistant Commissioners

(*2*) From every other decree or order of a Tahsildar, Munsif Assistant Commissioner or Extra Assistant Commissioner in an original suit, and from every decree or order of a Naib tahsildár in such a suit, an appeal shall lie to the Court of the Deputy Commissioner

68 (*1*) A decree or order made in an original suit of value not exceeding five hundred rupees by a Deputy Commissioner shall subject to the provisions of this Regulation with respect to revision, be final — Appeal from Court of Deputy Commissioner

(*2*) From every other decree or order of a Deputy Commissioner in an original suit an appeal shall lie to the Court of the Judicial Commissioner

69 (*1*) Save as provided by this section, and subject to the provisions of this Regulation with respect to revision, an appellate decree or order of a Deputy Commissioner shall be final — Appeals from appellate decrees and orders

(*2*) An appeal from an appellate decree or order of a Deputy Commissioner in a suit of value exceeding one thousand rupees shall lie to the Court of the Judicial Commissioner

Revision

70 The Judicial Commissioner or, subject to any general or special directions of the Judicial Commissioner, the Deputy Commissioner may, of his own motion or otherwise, call for the record of any case decided by a Court under his control in which an appeal does not lie or in which, for cause shown to his satisfaction, an appeal has not been preferred within the time limited therefor, and may pass such order in the case as he thinks fit — Revision

Distribution of Business and Transfer of Proceedings.

Power for Deputy Commissioner to distribute business.

71. Notwithstanding anything in the Code of Civil Procedure[1] or the Provincial Small Cause Courts Act, 1887,[2] a Deputy Commissioner may, by order, direct that any civil business cognizable by his Court and the Courts under his control shall be distributed among those Courts in such manner as he thinks fit :

Provided that, except so far as it may affect the exclusive jurisdiction of a Court of Small Causes or Court invested with the jurisdiction of a Court of Small Causes, a direction given under this section shall not empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Power for Judicial Commissioner and Deputy Commissioner to transfer proceedings.

72. The Judicial Commissioner or Deputy Commissioner may withdraw any suit or other proceeding pending in any Court under his control and try it himself or refer it for disposal to any other Court under his control and competent to try it.

Review.

Review.

73. (*1*) The Judicial Commissioner may, for sufficient reason, review any decree or order which has been passed by himself and from which an appeal has not been preferred to His Majesty in Council.

(2) A Court subordinate to the Court of the Judicial Commissioner shall not review any decree or order made by it, except for the purpose of correcting a clerical error or other error, manifestly the result of an oversight, without previously obtaining,—

(*a*) in the case of any Court subordinate to the Deputy Commissioner, the permission of the Deputy Commissioner;

(*b*) in the case of the Court of a Deputy Commissioner, the permission of the Judicial Commissioner.

CHAPTER IV.

REFERENCE TO ARBITRATION.

Making and Contents of References.

Making of reference.

74. Any Court may, with the consent of the parties, by order, refer any dispute before it to arbitration.

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[1] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908) Genl. Acts, Vol. VI. Portions of this Act are in force in British Baluchistan, by virtue of British Baluchistan Laws Regulation, 1913 (2 of 1913), *infra*, p. 209.

[2] *See* Genl. Acts, Vol. IV. This Act is in force in British Baluchistan, by virtue of the British Baluchistan Laws Regulation, 1913 (2 of 1913), *infra*, p. 209.

75 In referring any such dispute to arbitration, the Court making the reference shall specify, in the order of reference, the precise matter submitted to the arbitrators or arbitrator and such period as it may think reasonable for the delivery of the award, and the Court may, from time to time, extend such period

Contents of order of reference

References to several Arbitrators

76 The parties to the case may each nominate either one or two arbitrators Provided that each party shall nominate the same number,

and a third or fifth arbitrator (as the case may be) shall be appointed by the Court making the reference

Appointment of arbitrators where reference is to more than one arbitrator

77. Every Court making a reference under this Chapter may, on good cause shown, excuse any person from serving as an arbitrator, and may call on the party who nominated such person to nominate another in the place of the person so excused

Power to excuse arbitrator from serving and to call for nomination of substitute

78 If an arbitrator dies, desires to be discharged or refuses or becomes incapable to act, the party who nominated him shall nominate another person in his place

Nomination of new arbitrator in place of one dying or failing to act

79 If in any of the cases provided for by section 77 or section 78 any party fails for a week to nominate in manner aforesaid, the Court making the reference shall appoint some person to act as arbitrator

Nomination by Court on default of parties

80 The arbitrators shall determine and award concerning the matter referred to them for arbitration

Award

81 If the arbitrators require the presence of the parties, or any other persons whose evidence may be necessary, they may apply to the Court making the reference, and the Court shall summon such parties or persons,

and all such parties or persons shall be bound to attend, either in person or by agent, as the arbitrators may require, and to state the truth and to produce such documents and other things as may be required before the arbitrators

Summoning parties to give evidence

82 The award shall be made in writing under the hands of the arbitrators and shall be submitted by them to the Court making the reference, and the Court shall cause notice to be served on the parties to attend and hear the award

Preparation and submission of award

83 The Court making the reference may remit the award or any matter referred to arbitration to the reconsideration of the same arbitrators—

Remission of award to arbitrators.

(a) if the award has left undetermined any matter referred to arbitration, or if it has determined a matter not referred to arbitration;

(b) if the award is so indefinite as to be incapable of execution; or

(c) if an objection to the legality of the award is apparent upon the face of the award.

Grounds for setting aside award.

84. (1) No award shall be liable to be set aside except on the ground of corruption or misconduct of all or any of the arbitrators.

(2) Any application to set aside an award shall be made within ten days after the day appointed for hearing the award.

Decision according to award.

85. If the Court making the reference sees no cause for remitting or further remitting the award or any matter referred to arbitration for reconsideration in the manner aforesaid,

and if no application has been made to set aside the award,

or if the Court has refused such application,

the Court shall decide in accordance with the award of the majority of the arbitrators,

and shall fix the amount to be allowed for the expenses of the arbitration, and direct by and to whom, and in what manner, the same shall be paid.

Bar to appeal and suit.

86. Such decision shall not be open to appeal, and shall be at once carried out;

and no Court shall entertain any suit for the purpose of setting it aside or against the arbitrators on account of their award.

References to a single Arbitrator.

Reference to single arbitrator.

87. If the parties desire that the matter in dispute be referred to one arbitrator instead of to three or five arbitrators under section 76, the matter may be so referred, and the provisions of sections 77 to 86, both inclusive, shall then apply, so far as they can be made applicable, to the single arbitrator and to the proceedings before him and his award.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

Disposal of pending cases.

88. (1) Cases pending at the commencement of this Regulation shall be disposed of by such of the Courts under this Regulation as the Judicial Commissioner may direct, and shall be dealt with as nearly as may be in accordance with the provisions of this Regulation.

(2) But if in any such case it appears to the Court that the application of any provision in this Regulation would deprive any party of any right which, but for this Regulation, would have belonged to him, the Court may proceed as if this Regulation were not in force

89. (*1*) When in any suit it is necessary for a Court under this Regulation to decide any question regarding succession, inheritance, pre emption, marriage or caste, or any religious usage or institution,— Law to be administered

the Muhammadan law in cases where the parties are Muhammadans, and
the Hindu law in cases where the parties are Hindus,

shall form the rule of decision, except in so far as that law has been altered or abolished by legislative enactment, or is opposed to any custom having the force of law in British Baluchistan

(*2*) In cases not provided for by sub section (*1*) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience

90. (*1*) The Judicial Commissioner may make rules consistent with this Regulation for regulating the practice and proceedings of his own Court and the Courts subordinate thereto Power for Judicial Commissioner to make rules

(*2*) With the previous sanction of the Chief Commissioner, rules may be made under sub section (*1*) for the regulation of the following among other matters, namely —

(*a*) the fees to be paid for processes,
(*b*) the fees to be paid for copies and inspection of records,
(*c*) the travelling and other expenses of witnesses,
(*d*) the qualifications to be possessed by, and the conditions to be imposed on, legal practitioners applying to the Chief Commissioner for authority to plead and act for parties under this Regulation, and the fees, if any, to be paid for the concession of such authority,
(*e*) the licensing of petition writers and regulation of their conduct, and
(*f*) generally for the purpose of carrying into effect the provisions of this Regulation in matters not expressly provided for by this section

(*3*) Whoever breaks any rule under clause (*e*) of sub section (*2*) may, subject to the provisions of any rule under that clause, be suspended or removed from practice or be punished with fine which may extend to fifty rupees

91. The procedure to be observed by any Court under this Regulation in suits shall be followed, so far as it can be made applicable, in all proceedings in that Court other than suits Miscellaneous proceedings.

Decrees and orders not reversible on technical grounds alone.

92. Notwithstanding anything in this Regulation, a decree or order shall not be reversed or altered on appeal or revision on account of any irregularity of procedure unless the irregularity has occasioned, or is likely to occasion, a failure of justice.

Conferment of powers of Deputy Commissioner.

93. (*1*) Subject to other provisions of this Regulation, the Chief Commissioner may, by order in writing, invest any Assistant Commissioner or Extra Assistant Commissioner with all or any of the powers of a Deputy Commissioner under this Regulation and declare that the powers with which he is so invested are to be exercised within any specified local area and with respect to any particular class or particular classes of cases or with respect to cases generally.

(*2*) The Court of an Assistant Commissioner or Extra Assistant Commissioner so invested shall, for all purposes connected with the exercise of the said powers, be deemed to be the Court of a Deputy Commissioner.

(*3*) The Judicial Commissioner may, by order in writing, direct how business is to be distributed between the Deputy Commissioner and any Assistant Commissioner or Extra Assistant Commissioner invested as aforesaid.

Power to confer Small Cause Court jurisdiction.

94. (*1*) The Chief Commissioner may confer, within such local limits as he may prescribe in this behalf, upon any Tahsildár, Munsif, Assistant Commissioner or Extra Assistant Commissioner the jurisdiction of a Judge of a Court of Small Causes under the[1] Provincial Small Cause Courts Act, 1887, IX of for the trial of suits cognizable by such Courts up to such value not exceeding one hundred rupees in the case of a Tahsildár or Munsif, or five hundred rupees in the case of an Assistant Commissioner or Extra Assistant Commissioner, as he thinks fit, and may withdraw any jurisdiction so conferred.

(*2*) The Judicial Commissioner may make rules for regulating the distribution of business between any Tahsildár or Munsif and any Assistant Commissioner or Extra Assistant Commissioner upon whom jurisdiction may be conferred within the same local limits under sub-section (*1*).

Limitation for appeals and applications under this Regulation.

95. Where the Code of Civil Procedure[2] or any part thereof is referred XIV o to in the second or third division of the second schedule to the Indian Limitation Act, 1877,[3] the reference shall be construed as applying to this Regula- XV of tion or the corresponding part thereof, if any.

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[1] Gen. Acts, Vol. IV. This Act is in force in British Baluchistan by virtue of the British Baluchistan Laws Regulation, 1913 (2 of 1913), *infra*, p. 209.

[2] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI. Portions of the Act are in force in British Baluchistan in virtue of the British Baluchistan Laws Regulation, 1913 (2 of 1913), *infra*, p. 209.

[3] *See* now the Indian Limitation Act, 1908 (9 of 1908), Genl. Acts, Vol. VI. The Act is in force in British Baluchistan in virtue of the British Baluchistan Laws Regulation, 1913 (2 of 1913), *infra*, p. 209.

THE SCHEDULE

Year	No	Subject or title	Extent of repeal
1890	III	The British Baluchistan Civil Justice Regulation 1890	The whole
1890	V	The British Baluchistan Forest Regulation, 1890	Section 47
1893	III	Amending the British Baluchistan Civil Justice Regulation, 1890	The whole

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THE FRONTIER CRIMES REGULATION, 1901 (III OF 1901).

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THE FIRST SCHEDULE.
THE SECOND SCHEDULE.

REGULATION No. III OF 1901.[1]

[*18th September, 1901.*]

A Regulation further to provide for the suppression of crime in certain frontier districts.

WHEREAS it is expedient further to provide for the suppression of crime in certain frontier districts; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, commencement and extent.

1. (*1*) This Regulation may be called the Frontier Crimes Regulation, 1901; and

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[1] The Regulation was extended to British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), *infra*, p. 209. All references to the Commissioner or to the Court of the Commissioner shall be read as referring to the Chief Commissioner of British Baluchistan.

(2) It shall come into force at once

(3) It extends to the districts of Peshawar, Kohat, Hazara, Bannu, Dera Ismail Khan and Dera Ghazi Khan, but the Local Government may, by notification in the local official Gazette, exempt any local area from the operation of all or any of its provisions

(4) Sections 1 to 5, 10, 20, 21, 26 to 28, 31, 32, 36, 37, 56 and 60 to 64 are of general application, but the remaining sections may be enforced, in whole or in part, as the case may be, only against Pathans and Biluchis and against such other classes as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare to be subject thereto

(5) A notification under sub-section (4) may declare a specified class only to be subject to all or any of the provisions of this Regulation in a district or part of a district

Explanation—The word "class," as used in sub-sections (4) and (5), includes any persons who may be collectively described in a notification under this section as persons subject to all or any of the provisions of this Regulation

2 In this Regulation, unless there is anything repugnant in the subject or context,— Definitions.

(a) "Council of Elders" means a Council of three or more persons convened according to the Pathan, Biluch or other usage as the Deputy Commissioner may in each case direct, and

(b) "Deputy Commissioner" includes any Magistrate of the first class appointed by the Deputy Commissioner by order in writing to exercise all or any of the functions or powers specified in the first part of the first schedule, and also any Magistrate appointed by the Local Government to exercise all or any of such functions or powers

3. (1) The provisions of this Regulation shall take effect in cases to which they apply, notwithstanding anything in any other enactment Relation of Regulation to other enactments.

(2) The powers conferred by this Regulation may be exercised in addition to any powers conferred by or under any other enactment, and, where the contrary is not expressed or implied, other enactments in force in any place in which all or any of the provisions of this Regulation are for the time being in force shall, so far as may be, apply to cases dealt with in that place under this Regulation

CHAPTER II.

POWERS OF COURTS AND OFFICERS.

Additional District Magistrates.

4. (1) In any district in the whole or any part of which all or any of the provisions of this Regulation are for the time being in force, the Local Government may appoint any Magistrate or Magistrates of the first class to be an Additional District Magistrate or Additional District Magistrates, without any limit of time.

(2) Every Additional District Magistrate so appointed shall have all the ordinary powers of a District Magistrate specified in the fifth part of the third schedule to the [1]Code of Criminal Procedure, 1898. V of

(3) When exercising any of the powers of a Deputy Commissioner under this Regulation, an Additional District Magistrate shall be deemed, for the purposes of this Regulation, to be the Deputy Commissioner.

(4) Every Additional District Magistrate shall exercise his powers in subordination to the District Magistrate, and in such cases or classes of cases, and within such local limits, as the District Magistrate may, by order in writing, direct.

Power of District Magistrate to withdraw or recall cases.

5. (1) The District Magistrate may withdraw any case from, or recall any case which he has made over to, an Additional District Magistrate, whether the Additional District Magistrate is exercising jurisdiction with respect to the case as a Magistrate or as a Deputy Commissioner.

(2) If the case may, under the [1] Code of Criminal Procedure, 1898, be referred to another Magistrate competent to inquire into or try it, the District Magistrate may instead of disposing of the case himself, refer it to such other Magistrate for inquiry or trial, as the case may be. V of 18

Power to pass sentence of whipping in certain cases.

6. Where any person against whom, under section 1, sub-section (4), this section may for the time being be enforced is convicted by a Criminal Court of an offence punishable under any of the following sections of the [2]Indian Penal Code, namely, sections 304, 307, 324, 325, 326, 376, 377, 382, 392 to 399, 427, 428, 429, 435, 436 and 448 to 460, the Court may, subject to the provisions of section 393 of the [1] Code of Criminal Procedure, 1898, pass upon him a sentence of whipping in addition to any other punishment to which he may be sentenced. XLV of 1860. V of 189

Tender of pardon to accomplice.

7. Section 337 of the [1] Code of Criminal Procedure, 1898, shall, for the purposes of this Regulation, be read as if after the word "offence" where it first occurs, the words "triable exclusively by the Court of Session or High V of 189

[1] Genl. Acts, Vol. V.
[2] Genl. Acts, Vol. I.

Court", and after the words "termination of the trial" the words "by the Court of Session of High Court, as the case may be" were omitted

CHAPTER III

COUNCILS OF ELDERS

8 (*1*) Where the Deputy Commissioner is satisfied, from a police report or other information, that a dispute exists which is likely to cause a blood-feud, or murder, or culpable homicide not amounting to murder or mischief or a breach of the peace, or in which either or any of the parties belongs to a frontier tribe, he may, if he considers that the settlement thereof in the manner provided by this section will tend to prevent or terminate the consequences anticipated [1] * * * make an order in writing, stating the grounds of his being so satisfied, referring the dispute to a Council of Elders, and requiring the Council to come to a finding on the matters in dispute after making such inquiry as may be necessary and after hearing the parties [1] * * * * Civil references to Council of Elders

(*2*) The order of reference made under sub-section (*1*) shall state the matter or matters on which the finding of the Council of Elders is required

(*3*) On receipt of the finding of the Council of Elders under this section, the Deputy Commissioner may—

(*a*) remand the case to the Council for a further finding, or

(*b*) refer the case to a second Council, or

(*c*) refer the parties to the Civil Court, or

(*d*) pass a decree in accordance with the finding of the Council, or of not less than three fourths of the members thereof, on any matter stated in the reference, or

(*e*) declare that further proceedings under this section are not required

9. A decree passed under section 8, sub-section (*3*), clause (*d*), shall not give effect to any finding or part of a finding which, in the opinion of the Deputy Commissioner, is contrary to good conscience or public policy, but shall— Effect of decree on finding of Council.

(*a*) be a final settlement of the case so far as the decree relates to any matter stated in the reference, although other matters therein stated may remain undisposed of, and

[1] The words "and if a suit is not pending in respect of the dispute," and "the members of the Council of Elders shall, in each case be nominated and appointed by the Deputy Commissioner" were omitted by Schedule I of Regulation 3 of 1913, *infra*, p. 200

(*b*) have, to that extent and subject to the provisions of this Regulation with respect to revision, the same effect as a decree of a Civil Court of ultimate resort, and be enforced by the Deputy Commissioner in the same manner as a decree of such a Court may be enforced.

Restriction on jurisdiction of Civil Courts.

10. No Civil Court shall take cognizance of any claim with respect to which the Deputy Commissioner has proceeded under section 8, sub-section (*3*), clause (*a*), clause (*b*) or clause (*d*).

Criminal references to Councils of Elders.

11. (*1*) Where, in the opinion of the [1]Commissioner or Deputy Commissioner, it is inexpedient that the question of the guilt or innocence of any person or persons accused of any offence, or of any of several persons so accused, should be tried by a Court of any of the classes mentioned in section 6 of the [2]Code of Criminal Procedure, 1898, the Deputy Commissioner may, or if the [1]Commissioner so directs, shall, by order in writing, refer the question to the decision of a Council of Elders, and require the Council to come to a finding on the question after such inquiry as may be necessary and after hearing the accused person. [3]* * * * *

V of 18

[4](*2*) [Where a reference to a Council of Elders is made under sub-section (*1*), the names of the members shall, as soon as may be, be communicated to the accused person, and any objection which he may then make to any such member shall be recorded. The Deputy Commissioner shall consider every objection made by an accused person under this sub-section and may, in his discretion, either accept or reject the objection: provided that, in the latter case, he shall record his reasons for so doing.]

(*3*) On receipt of the finding of the Council of Elders under this section the Deputy Commissioner may—

(*a*) remand the question to the Council for a further finding; or

(*b*) refer the question to a second Council; or

(*c*) acquit or discharge the accused person or persons, or any of them; or,

(*d*) in accordance with the finding on any matter of fact of the Council, or of not less than three-fourths of the members thereof, convict the accused person or persons, or any of them, of any offence of which the facts so found show him or them to be guilty:

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[1] To be construed as referring to the Chief Commissioner of British Baluchistan, *see* Schedule I of Regulation 2 of 1913, *infra*, p. 209.

[2] Genl. Acts, Vol. V.

[3] The words "the members of the Council of Elders shall, in each case, be nominated and appointed by the Deputy Commissioner" were omitted by Schedule I of Regulation 2 of 1913, *infra*, p. 209.

[4] Substituted by Schedule I of Regulation 2 of 1913, *infra*, p. 209.

Provided that a person discharged under clause (c) shall not be liable to be retried for any offence arising out of the same facts after the expiry of two years from the date of such discharge.

12. (1) Where the Deputy Commissioner convicts a person under section 11, sub section (3), clause (d), he may pass upon him any sentence of fine Punishment on conviction on finding of Council

(2) Where the Deputy Commissioner so convicts a person of an offence mentioned in the second schedule, he may, whatever may be the punishment prescribed for the offence, sentence the person, in lieu of or in addition to fine, to be imprisoned for a term which may extend to seven years, or, subject to the provisions of section 393 of the [1]Code of Criminal Procedure,
1898 1898, to be whipped, or to be whipped and imprisoned for a term which may extend to five years, or to be transported for a term which may extend to seven years, and, where he so convicts a person of an offence punishable with transportation or with imprisonment for a term exceeding seven years, he may, subject to confirmation by the [2]Commissioner, sentence the person to a term either of transportation or of imprisonment exceeding seven years but not exceeding fourteen years

Provided, first, that a sentence of whipping shall not be passed on any person so convicted of an offence under section 121, 121A, 122, 123, 124A,
of 1860 125, 126, 127, 144, 150, 216, 216A, 400, 401, 402, 494 or 495 of the [3]Indian Penal Code

Provided, secondly, that a sentence of transportation or imprisonment for an offence shall not be for a longer term than that (if any) prescribed for the offence and

Provided, thirdly, that a sentence of transportation shall not be passed for an offence which is not punishable with transportation or with imprisonment for a term which may extend to seven years or more

13 (1) Any sentence passed under section 12 shall be executed in the manner provided for the execution of sentences passed by a Court of any of Manner of enforcing sentences
1898 the classes mentioned in section 6 of the [1]Code of Criminal Procedure, 1898

7 of 1860 (2) For the purposes of sections 64 to 67 of the [3]Indian Penal Code in reference to a sentence under section 12 of this Regulation—

(a) an offence punishable with death or transportation for life shall be

[1] Genl Acts, Vol. V
[2] See footnote [1] on p 155, supra
[3] Genl Acts, Vol. I.

deemed to be punishable with rigorous imprisonment for a term which may extend to ten years; and

(*b*) the imprisonment in default of payment of fine may be rigorous or simple at the discretion of the Deputy Commissioner.

Time for exercising power of reference to Council of Elders.

14. The powers conferred by section 11 on the [1]Commissioner and Deputy Commissioner, respectively, may be exercised by them, in cases committed to the Court of Session, at any time before the trial before that Court has commenced, and, in cases pending before any Court inferior to the Court of Session, at any time before an order of conviction or acquittal has been made.

Motion by Public Prosecutor in view to reference to Council of Elders.

15. (*1*) In any trial before a Court of Session, the Public Prosecutor may, when instructed in writing in that behalf by the [1]Commissioner or Deputy Commissioner, at any time before an order of conviction or acquittal has been made with respect to any accused person, withdraw from the prosecution of such person in order that the case may be referred to a Council of Elders.

(*2*) The Sessions Judge shall thereupon stay proceedings with respect to such person, and the Deputy Commissioner shall refer the case to a Council of Elders.

Case of persons jointly accused of an offence.

16. The powers conferred by section 11, as limited by section 14, may be exercised against, and the withdrawal of a prosecution under section 15 may have reference to, one or some only of two or more persons jointly accused of an offence.

Power to set aside orders making or refusing to make references to Councils of Elders.

17. The Deputy Commissioner may, if he thinks fit, at any time reconsider and set aside any order of the Deputy Commissioner under this Regulation—

(*a*) directing a reference to a Council of Elders, or

(*b*) refusing to make such a reference.

Recommendations of Councils of Elders.

18. (*1*) Where a Council of Elders, to which a reference has been made under this Regulation, makes any recommendation to which effect might be given if it were a finding on a matter or question referred to the Council under this Regulation, the Deputy Commissioner may, if the recommendation affects a person mentioned in the order of reference and is relevant to the matter or question actually referred, deal with the recommendation or any part of it as if it were a finding under section 8 or section 11 :

Provided that no decree or sentence may be passed on any such recommendation as aforesaid against any person who has not had the claim or

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[1] See footnote [1] on p. 155, *supra*.

charge fully explained to him and been given an opportunity of entering upon his defence in regard thereto

(2) Where the Deputy Commissioner deals with a recommendation under sub section (*1*), he may pass any such decree as is authorized by section 8, or any such sentence as is authorized by section 12, sub section (*1*), and the decree or sentence shall have the same effect and be enforced in the same manner as if it were a decree or sentence passed under section 8 or section 12, sub section (*1*), as the case may be

19. (*1*) Where the Deputy Commissioner passes, under this Chapter, a sentence of fine exceeding two hundred rupees, or of imprisonment for a term exceeding three months, or of transportation he shall make a record of the facts of the case, of the offence committed and of his reasons for passing the sentence

Record of Deputy Commissioner

(2) The record shall be made by the Deputy Commissioner in English and in his own hand, unless for any sufficient reason he is prevented from so making it, in which case he shall record the reason of his inability and shall cause the record to be made from his dictation in open Court

20. Where a reference is made to a Council of Elders under this Chapter, the Duputy Commissioner may exercise all or any of the powers conferred by the [1]Code of Civil Procedure and the [2]Code of Criminal Procedure, 1898,
82. respectively, as the case may be, for the purpose of compelling the attendance, before himself or the Council of Elders, of the parties and witnesses, or any of them, in any case and at any stage of the proceedings

Attendance of parties and witnesses before Deputy Commissioner or Council of Elders

CHAPTER IV

PENALTIES

21 In the event of any frontier tribe, or of any section or members of such tribe, acting in a hostile or unfriendly manner towards the British Government or towards persons residing within British India, the Deputy Commissioner may, with the previous sanction of the [3]Commissioner by order in writing, direct—

Blockade of hostile or unfriendly tribe

(*a*) the seizure, wherever they may be found, of all or any of the members of such tribe and of all or any property belonging to them or any of them ,

[1] See now the Code of Civil Procedure, 1908 (Act 5 of 1908) Genl. Acts, Vol. VI

[2] Genl. Acts, Vol. V

[3] See footnote [1] on p 155, *supra*

(*b*) the detention in safe custody of any person or property so seized; and

(*c*) the confiscation of any such property;

and may, with the like sanction, by public proclamation,—

(*d*) debar all or any members of the tribe from all access into British India; and

(*e*) prohibit all or any persons within the limits of British India from all intercourse or communication of any kind whatsoever, or of any specified kind or kinds, with such tribe or any section or members thereof.

Fines on communities accessory to crime.

22. Where, from the circumstances of any case, there appears to be good reason to believe that the inhabitants of any village, or part of a village, or any of them, have—

(*a*) connived at, or in any way abetted, the commission of an offence; or

(*b*) failed to render all assistance in their power to discover the offenders or to effect their arrest; or

(*c*) connived at the escape of, or harboured, any offender or person suspected of having taken part in the commission of an offence; or

(*d*) combined to suppress material evidence of the commission of an offence;

the Deputy Commissioner may, with the previous sanction of the [1] Commissioner, impose a fine on the inhabitants of such village or part of a village, or any of them, as a whole.

Fines on communities where murder or culpable homicide is committed or attempted

23. Where, within the area occupied by a village-community or part of a village-community, a person is dangerously or fatally wounded by an unlawful act, or the body is found of a person believed to have been unlawfully killed, the members of the village-community or part thereof shall be deemed to have committed an offence under section 22, unless the headmen of the village-community or part thereof can show that the members thereof—

(*a*) had not an opportunity of preventing the offence or arresting the offender; or

(*b*) have used all reasonable means to bring the offender to justice.

Recovery of fines.

24. Fines imposed under section 22 shall, in default of payment, be recoverable as if they were arrears of land-revenue due by the members of the community or part thereof upon whom the fine is imposed.

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[1] *See footnote [1] on p. 155, supra.*

25. Where a village community or part of a village-community has become liable to fine under section 22, it shall further be liable to forfeit, in whole or in part and for a term or in perpetuity, any remission of land revenue of which it may be in joint enjoyment, and the members of the village-community or part thereof, as the case may be, shall in like manner be liable severally to forfeit any assignment or remission of land revenue or allowance paid out of public funds which they, or any of them, may enjoy

Forfeiture of remissions of *revenue, etc*, in the case of communities and persons accessory to crime

26 Where it is shown, to the satisfaction of the Deputy Commissioner, that any person who is in the enjoyment of an assignment or remission of land-revenue or allowance payable out of public funds, has been guilty of a serious offence, or has colluded with or harboured any criminal, or has suppressed material evidence of the commission of any offence, or has failed, on the investigation of any criminal case, to render loyal and proper assistance to the authorities to the best of his ability, the Deputy Commissioner may, in addition to any other penalty to which such person may be liable under any law for the time being in force, direct the forfeiture, in whole or in part and for a term or in perpetuity, of such assignment or remission of land revenue or allowance, as the case may be

Forfeiture of public emoluments, etc of persons guilty of serious offences or of *conniving* at crime

Explanation — For the purposes of this section the expression "serious offence" means any offence punishable with transportation or with imprisonment for a term which may extend to three years or more

27 Forfeiture under section 25 or section 26 may be adjudged by order of the Deputy Commissioner for a term which may extend to three years, and by order of the [1] Commissioner for any longer term or in perpetuity

Power to direct forfeiture

28 Nothing in sections 25, 26 and 27 shall affect the powers of the Local Government with respect to the grant, continuance or forfeiture, in whole or in part, of any assignment or remission of land-revenue or of any allowance paid out of public funds.

Powers of Local Government saved.

29. Where a person is found carrying arms in such manner or in such circumstances as to afford just grounds of suspicion that the arms are being carried by him with intent to use them for an unlawful purpose, and that person has taken precautions to elude observation or evade arrest, or is found after sunset and before sunrise within the limits of any military camp or cantonment or of any municipality, he shall be punishable with imprisonment for a term which may extend to five years or with fine, or with both and the arms carried by him may be confiscated

Preparation to commit certain offences

[1] See footnote [1] on p 159, *supra*

Adultery. **30.** (*1*) A married woman who, knowingly and by her own consent, has sexual intercourse with any man who is not her husband, is guilty of the offence of adultery, and shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

(*2*) Cognizance shall not be taken of an offence under this section unless a complaint has been made by the husband of the woman, or, in his absence, by a person who had care of the woman on his behalf at the time when the offence was committed.

CHAPTER V.

PREVENTIVE AND OTHER AUTHORITY AND JURISDICTION.

Power to prohibit erection of new villages or towers on frontier. **31.** (*1*) No new hamlet, village-habitation, tower or walled enclosure shall, without the previous sanction in writing of the [1] Commissioner, who may either grant or refuse such sanction as he thinks fit, be erected at any place within five miles of the frontier of British India.

(*2*) Where the [1] Commissioner refuses to sanction the erection of any such hamlet, village-habitation, tower or walled enclosure, as the case may be, he shall record his reasons for so doing.

Power to direct removal of villages. **32.** Where it is expedient on military grounds, the Local Government may, by order in writing, direct the removal of any village situate in close proximity to the frontier of British India to any other site within five miles of the original site, and award to the inhabitants such compensation for any loss which may have been occasioned to them by the removal of their village as, in the opinion of the Local Government, is just.

Regulation of hujras and chauks. **33.** (*1*) No building of the kind commonly known as a "hujra" or "chauk," and no building intended to be used as a "hujra" or "chauk," shall be erected or built, and no existing building not now used as a "hujra" or "chauk" shall at any time be used as such, without the previous sanction in writing of the Deputy Commissioner.

(*2*) Whoever contravenes the provisions of sub-section (*1*) shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Demolition of buildings used by robbers, etc. **34.** (*1*) Where the Deputy Commissioner is satisfied that any building is habitually used as a meeting place by robbers, house-breakers, thieves or bad characters or for the purpose of gambling, he may, by order in writing,

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[1] See footnote [1] on p. 155, *supra*.

prohibit the owner or occupier thereof from so using such building, and if the order is not obeyed, may, by a like order, direct that the building be demolished Such further order shall be without prejudice to any punishment to which the owner or occupier of such building may, under any law for the time being in force, be liable for disobedience of the prohibitory order

(2) No person shall be entitled to any compensation in respect of the demolition of any building under sub section (*1*).

35 (*1*) Where, in the opinion of the Deputy Commissioner, the custom of providing for watch and ward by what are commonly known as "naubati chaukidars" exists in the case of any village-community, and the village-community or any part thereof fails to provide for the due performance of such service, or any member of the village-community fails to perform his duty of watch and ward according to the customary rotation in respect of such duties, the Deputy Commissioner may impose a fine, which may extend to one hundred rupees in any one case, upon the village community or part or member thereof so failing as aforesaid

Naubati chaukidari system

(2) The provisions of section 24 shall be applicable to the recovery of fines imposed on any village-community or part thereof under this section

(3) Where such custom as aforesaid has not existed or has fallen into disuse in any village-community, the Deputy Commissioner may, with the previous sanction of the [1] Commissioner, by order in writing, direct its introduction or revival, as the case may be, and thereupon the provisions of sub-section (*1*) shall apply in respect of the village-community

36 Where, in the opinion of the Deputy Commissioner, any person—

Power to require persons to remove in certain cases.

(*a*) is a dangerous fanatic, or

(*b*) belongs to a frontier tribe and has no ostensible means of subsistence or cannot give a satisfactory account of himself, or

(*c*) has a blood-feud, or

(*d*) has occasioned cause of quarrel likely to lead to bloodshed,

the Deputy Commissioner may, by order in writing, require him to reside beyond the limits of the territories to which this Regulation extends or at such place within the said territories as may be specified in the order

Provided that, if the person has a fixed habitation in the place which the Deputy Commissioner requires him to leave, an order under this section shall not be made without the previous sanction of the [1] Commissioner

[1] See footnote [1] on p. 155, *supra*

Penalty for breach of certain orders.

37. Whoever contravenes the provisions of section 31, or disobeys an order under section 21 or section 32, or a prohibition under section 34, or a requisition under section 36, shall be punishable with imprisonment for a term which may extend to six months, and shall also be liable to fine which may extend to one thousand rupees.

Powers of arrest.

38. In any place in which all or any of the provisions of this Regulation are for the time being in force,—

(*i*) any private person may, without an order from a Magistrate and without a warrant, arrest or cause to be arrested, and make over or cause to be made over to a police-officer, or take or cause to be taken to the nearest police-station, any person who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned; and

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(*ii*) section 46 of the [1] Code of Criminal Procedure, 1898, shall be read as if the following sub-section were added thereto, namely :—

" (*4*) But this section gives a right to cause the death of a person against whom those portions of the Frontier Crimes Regulation, 1901, which are not of general application, may be enforced—

(*a*) if he is committing or attempting to commit an offence, or resisting or evading arrest, in such circumstances as to afford reasonable ground for believing that he intends to use arms to effect his purpose; or

(*b*) if a hue and cry has been raised against him of his having been concerned in any such offence as is specified in clause (*a*), or of his committing or attempting to commit an offence, or resisting or evading arrest, in such circumstances as are referred to in the said clause."

Arrest without warrant in cases under section 498, Indian Penal Code.

39. (*1*) Where there is reason to believe that a person has committed or attempted to commit an offence punishable under section 498 of the [2]Indian Penal Code, an officer in charge of a police-station may, without an order from a Magistrate and without a warrant, arrest that person on the requisition of the husband of the woman, or, in his absence, of a person having the care of her on his behalf, or, in the absence of both the husband and any such

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[1] Genl. Acts, Vol. V.

[2] Genl. Acts, Vol. I.

person as last aforesaid from the village in which the woman resides, on the requisition of a headman of the village

(2) A police officer making an arrest under sub section (1) shall, without unnecessary delay, take or send the person arrested to the nearest Magistrate having jurisdiction

(3) The Magistrate may, in default of bail being furnished to his satisfaction, detain the person arrested for such period, not exceeding fifteen days, as may be necessary to enable the husband, or, in his absence, a person who had care of the woman on his behalf, to make a complaint

Security and surveillance for the prevention of murder or culpable homicide or the dissemination of sedition

40 (1) Where the [1]Commissioner or the Deputy Commissioner is of opinion that it is necessary, for the purpose of preventing murder or culpable homicide not amounting to murder, or dissemination of sedition, to require a person to execute a bond for good behaviour or for keeping the peace, as the case may be, he may order the person to execute a bond, with or without sureties, for his good behaviour or for keeping the peace, as the case may be, during such period, not exceeding three years, as the [1]Commissioner or the Deputy Commissioner, as the case may be, may fix

(2) The Deputy Commissioner may make an order under sub-section (1)—

(a) on the recommendation of a Council of Elders, or

(b) after inquiry as hereinafter provided

(3) Where a person has been convicted in accordance with the finding of a Council of Elders of an offence mentioned in section 106 of the [2] Code of Criminal Procedure, 1898, or punishable under section 302, section 304, [illegible] 307 or section 308 of the [3]Indian Penal Code, the Deputy Commissioner at the time of passing sentence, or the [1]Commissioner at the time [illegible] the sentence, may make an order under sub-section (1) [illegible] to that person

(4) Where the Deputy Commissioner makes an [illegible] (1) on the recommendation of a Council of Elders, [illegible] acting on the recommendation

(5) Where the [1]Commissioner or the D[illegible] that sufficient grounds exist for making [illegible] either in lieu of or in addition to [illegible] the person concerned shall n[illegible]

the manner prescribed by section 565 of the [1]Code of Criminal Procedure, V 1898, during such term, not exceeding three years, as may be specified in the order.

Security from families or factions in case of blood-feud.

41. Where a blood-feud or other cause of quarrel likely to lead to bloodshed exists, or, in the opinion of the Deputy Commissioner, is likely to arise between two families or factions, the Deputy Commissioner may, on the recommendation of a Council of Elders or after inquiry as hereinafter provided, order all or any of the members of both families or factions or of either family or faction to execute a bond, with or without sureties, for their good behaviour or for keeping the peace, as the case may be, during such period, not exceeding three years, as he may fix.

Procedure in inquiry.

42. (*1*) An inquiry for the purposes of section 40, sub-section (*2*), or section 41, may be conducted, so far as may be necessary, out of Court:

Provided that a person from whom it is proposed to require a bond under section 40, or the principal members of a family or faction from which it is proposed to require a bond under section 41, shall be given an opportunity of showing cause in Court why a bond should not be required, and of having his or their witnesses examined there, and of cross-examining any witness not called by himself or themselves who may testify there to the necessity or otherwise for the execution of a bond.

(*2*) Sections 112, 113, 115 and 117 of the [1]Code of Criminal Procedure, V o 1898, shall not apply to an inquiry under this section, but the Deputy Commissioner shall record his order with the reasons for making it.

Breach of bond.

43. (*1*) A bond executed under section 40 shall be liable to be forfeited, if the person bound thereby to be of good behaviour or to keep the peace, as the case may be, commits or attempts to commit, or abets the commission of, any offence punishable with imprisonment.

(*2*) A bond executed under section 41 shall be liable to be forfeited, if the person bound thereby to be of good behaviour or to keep the peace, as the case may be, commits or attempts to commit, or abets the commission of, any offence punishable with imprisonment in respect of any member of the opposite family or faction to which the bond related.

(*3*) If, while a bond executed under section 41 is in force, the life of any member of either family or faction is unlawfully taken or attempted, the Deputy Commissioner may declare the bond of all or any of the members of the other family or faction and their sureties (if any) to be forfeited, unless

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[1] Genl. Acts, Vol. V.

it is shown to his satisfaction that the homicide or attempt was not committed by, or in consequence of the abetment of, any member of that family or faction

Imprisonment in default of security

44 (*1*) Where a person ordered to give security under section 40 or section 41 does not give security on or before the date on which the period for which the security is to be given commences, he shall be committed to prison, or, if he is already in prison, be detained in prison until that period expires or until within that period he furnishes the required security

(*2*) Imprisonment for failure to give security under this Chapter may be rigorous or simple as the officer requiring the security directs in each case

Length of imprisonment

45 Where a person has suffered imprisonment for three years for failure to give security under section 40 or section 41, he shall be released, and shall not again be required to give security unless a fresh order is passed in accordance with the provisions of this Chapter or of the [1] Code of Criminal Procedure, 1898

Further security

46 (*1*) Where a person has, under the provisions of this Chapter, given security or been imprisoned for failure to give security, he may be brought before the Deputy Commissioner, if, on the expiry of the period for which security was required to be given, the Deputy Commissioner so directs

(*2*) Where the Deputy Commissioner thinks it necessary, for the purpose of preventing bloodshed, to require security for a further period from any person so brought before him, he shall record a proceeding to that effect

(*3*) The proceeding may be founded on the facts on which the original order to give security was founded, and it shall not be necessary to prove any fresh facts to justify an order to give security for a further period under this section, but such an order, if passed, shall have the same effect and be enforced in the same manner as an original order to give security under section 40 or section 41

(*4*) Notwithstanding anything in this section, no person shall suffer for failure to give security under this Chapter, continuous imprisonment for more than six years or, without the sanction of the [2] Commissioner, for more than three years

47. (*1*) Where, within the territories in [illegible] any of the [illegible] sions of this Regulation are for the time [illegible]

[1] Genl Acts, Vol. V

[2] See [illegible]

or expedient to take security under this Regulation from Pathans or Biluchis or any other classes against whom all or any of the provisions of sections 40 to 46 may for the time being be enforced, the provisions of Chapters VIII and XLII of the [1] Code of Criminal Procedure, 1898, shall be read as if for the words "High Court," "Court of Session" and "Sessions Judge" wherever they occur, the word "Commissioner" were substituted, and all references to any such Courts shall be deemed to refer to the Court of the [2] Commissioner. V of

(2) Subject to the provisions of sub-section (2) of section 42 and sub-section (1) of this section, the provisions of the said Chapters of the [1]Code of Criminal Procedure, 1898, shall, so far as *they are consistent therewith*, be applicable to every proceeding under this Chapter relating to the taking of security; but all applications for revision in respect to any such proceeding shall be made to, and be disposed of by, the [2]Commissioner. V of

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CHAPTER VI.

Appeal and Revision.

Appeals barred.

48. No appeal shall lie from any decision given, decree or sentence passed, order made or act done, under any of the provisions of this Regulation.

Revision.

49. The [2] Commissioner may call for the record of any proceeding under this Regulation and revise any decision, decree, sentence or order given, passed or made therein.

Powers in exercise of criminal revisional jurisdiction.

50. The [2] Commissioner may, in the exercise of his revisional jurisdiction in any criminal proceeding, exercise the power to direct tender of pardon conferred by section 338, and any of the powers conferred on an Appellate Court by sections 195, 423, 426, 427 and 428 of the [1]Code of Criminal Procedure, 1898, and may also enhance any sentence: V of 18

Provided *that nothing in this* Chapter shall be deemed to authorize the [2]Commissioner to set aside the finding on any question of fact of a Council of Elders, where such finding has been accepted by the Deputy Commissioner, unless he is of opinion that there has been a material irregularity or defect

[1] Genl. Acts, Vol. V.
[2] See footnote [1] on p. 156, *supra*.

in the proceedings or that the proceedings have been so conducted as to *occasion a miscarriage of justice*

Sentences which may not be passed on revision

51. No sentence shall be passed by the [1]Commissioner in the exercise of his revisional jurisdiction which the Deputy Commissioner could not have passed under this Regulation

Powers in exercise of civil revisional jurisdiction

52 *Nothing in this Chapter* shall be *deemed to authorize the* [1] *Commissioner* to vary or set aside any decision, decree or order given, passed or made in any civil proceeding under this Regulation, unless he is of opinion that there has been a material irregularity or defect in the proceedings, or that the proceedings have been so conducted as to occasion a miscarriage of justice, or that the decision, decree or order is contrary to good conscience or public policy

Record of reasons.

53 Where, in the exercise of his revisional jurisdiction in any proceeding under this Regulation, the [1]Commissioner varies or sets aside any decision, decree, sentence or order, he shall record his reasons for so doing

Procedure where the decision, etc., to be revised was given by the Commissioner as Deputy Commissioner

54 (*1*) The [1]Commissioner shall not revise any decision, decree, sentence or order given, passed or made by himself in the capacity of *Deputy Commissioner*

(2) Where any such decision, decree, sentence or *order* is *brought to the* notice of the [1]Commissioner with a view to the exercise by him of his revisional jurisdiction in respect thereof under this Regulation, the [1]Commissioner shall report the case to the Local Government, and it shall be disposed of by the Local Government or by such *officer as the* Local Government may appoint in that behalf

Enforcement of orders made on revision.

55 Every order made by the [1]Commissioner in exercise of his revisional jurisdiction shall be enforced as if it were an order of the Deputy Commissioner or District Magistrate, as the case may *be*, and the Deputy Commissioner or District Magistrate shall do all *acts* and *things* necessary to give effect thereto

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CHAPTER VII.

SUPPLEMENTAL PROVISIONS

56 Where, by a decree passed under section [illegible] or by a [illegible] passed [illegible] under section 12, any person *belonging to a* [illegible] liable to [illegible]

pay a fine or other sum of money, the Deputy Commissioner may, on the recommendation of a Council of Elders and on satisfying himself that such a course is in accordance with local tribal custom, by order in writing, direct that the amount shall be recovered from the property, moveable or immoveable, of such of the relatives or fellow tribesmen of the person so liable as may be specified in the order.

Power of Deputy Commissioner to order disposal of certain fines.

57. (*1*) The Deputy Commissioner may make such order as he thinks fit for the disposal of the proceeds of any fine imposed under section 12, section 18 or section 22, and, subject to any order made by the [1] Commissioner under Chapter VI, the proceeds shall be disposed of accordingly.

(2) Where, in pursuance of an order made under sub-section (*1*), a person has received compensation for an injury out of the proceeds of a fine, no Civil Court shall take cognizance of a claim to compensation based on the same injury.

Maintenance of registers.

58. Registers shall be kept up, in forms to be approved by the Local Government, of all cases dealt with by the Deputy Commissioner and by the Commissioner under this Regulation.

Jurisdiction of ordinary Courts in cases under sections 29, 30 and 37.

59. An offence punishable under section 29 or section 30 may be tried by a Court of Session or by the Court of a Magistrate of the first class. An offence punishable under section 37 may be tried by any Magistrate of the first class.

Finality of proceedings under Regulation.

60. Except as therein otherwise provided, no decision, decree, sentence or order given, passed or made, or act done, under Chapter III, Chapter IV, Chapter V or Chapter VI, shall be called in question in, or set aside by, any Civil or Criminal Court.

Application of provisions of Indian Penal Code respecting fines and imprisonment.

61. The provisions of section 61, and those of sections 63 to 74, of the [2] Indian Penal Code, shall, subject to the provisions of section 13 of this Regulation, apply to sentences passed under this Regulation. XL

Power to make rules.

62. The Local Government may make rules to carry out the purposes and objects of this Regulation.

Protection for persons acting under Regulation.

63. No suit or other legal proceeding shall lie against any person for anything done, or in good faith intended to be done, under this Regulation.

Repeal.

64. The Punjab Frontier Crimes Regulation, 1887, is hereby repealed. IV

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[1] See footnote [1] on p. 155, *supra*.

[2] Genl. Acts, Vol. I.

THE FIRST SCHEDULE

[*See section 2, clause (b)*]

PART I —POWERS AND FUNCTIONS WITH WHICH MAGISTRATES OF THE FIRST CLASS MAY BE INVESTED BY DEPUTY COMMISSIONERS

(a) In the case of an additional District Magistrate—all or any of the powers and functions of a Deputy Commissioner

(b) In any other case—all or any of the following powers namely —

(i) power to make orders of reference to Councils of Elders, under section 8, sub-section *(1)* ,

(ii) power to nominate and appoint the members of the Council when an order of reference to a Council has been made under section 8, sub section *(1)* ,

(iii) power to nominate the members of the Council when an order of reference to a Council has been made under section 11, sub-section *(1)*

(iv) power to consider and dispose of objections made by an accused person to members so nominated and to appoint the members of a Council of Elders under section 11, sub section (2) , and

(v) power to take security under section 40

PART II —POWERS AND FUNCTIONS WITH WHICH MAGISTRATES MAY BE INVESTED BY THE LOCAL GOVERNMENT

(a) Power to nominate and appoint the members of a Council of Elders where an order of reference to a Council has been made under section 8, sub section *(1)* ,

(b) Power to nominate the members of the Council when an order of reference to a Council has been made under section 11, sub-section *(1)* , and

(c) Power to consider and dispose of objections made by an accused person to members so nominated and to appoint the members of a Council of Elders under section 11, sub section (2)

THE SECOND SCHEDULE.

[See section 12, sub-section 2.]

1. Any offence punishable under any of the following sections of the [1]Indian Penal Code, namely, sections 121, 121A, 122, 123, 124A, 125, 126, XL
127, 131, 144, 148, 150, 193, 194, 195, 196, 201, 211, 212, 216, 216A, 302, 1860
304, 307, 308, 324, 325, 326, 325, 354, 363 to 369, 376, 377, 379 to 382, 386, 387, 392 to 399, 400, 401, 402, 411 to 414, 427 to 429, 435, 436, 440, 449 to 460, 494, 495, 497 and 498.

2. Any offence punishable under section 29 or section 30 of this Regulation.

3. Abetment of any of the offences aforesaid.

4. Attempt to commit any of the offences aforesaid, which are not themselves expressed to be attempts to commit offences.

REGULATION No. IV OF 1901.

A Regulation to make better provision for the suppression of murderous outrages in certain frontier tracts.

[18th October, 1901.]

WHEREAS it is expedient to make better provision for the suppression of murderous outrages in certain frontier tracts; It is hereby enacted as follows:—

Short title, commencement and extent.

1. *(1)* This Regulation may be called the Frontier Murderous Outrages Regulation, 1901; and

(2) It shall come into force at once.

(3) Save as otherwise provided by section 6, sub-section *(2)*, it extends only to the territories for the time being administered by the Chief Commissioner of British Baluchistan; but the Local Government may, either of its own motion or at the request of the Judicial Commissioner, exempt any local area, or withdraw any case or class of cases, from the operation of all or any of its provisions.

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[1] Genl. Acts, Vol. I.

2. (*1*) Any fanatic who, within the meaning of the Indian Penal Code, commits murder, or does any act with such intention or knowledge, and in such circumstances, that, if he by that act caused death, he would commit murder, shall be punishable with death or with transportation or imprisonment for life, and all his property shall be forfeited to the Government. *Punishment of fanatic committing, or attempting to commit, murder.*

(*2*) Notwithstanding anything in section 393 of the *Code of Criminal Procedure, 1898, or in any other enactment for the time being in force, where any such fanatic as aforesaid is sentenced to transportation or imprisonment for life, he may also be sentenced to whipping in addition to such transportation or imprisonment.

3. Where any fanatic is killed in the act of committing an offence punishable under section 2, or, having been wounded and arrested in the act of committing any such offence, afterwards dies of his wounds, the Court which, under the provisions of section 4, would have had cognizance of the offence if the offender could have been brought to trial may proceed to hold an inquest into the circumstances of the death of the fanatic, and, on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid, may adjudge that all his property shall be forfeited to the Government, and may dispose of his body as it may think fit. *Forfeiture of property and disposal of body of fanatic killed in committing offence under section 2.*

4. (*1*) Any offence punishable under section 2 shall be triable by the Sessions Judge or Deputy Commissioner of the district in which it was committed: *Court which shall try offence punishable under section 2.*

Provided that the jurisdiction so conferred on the Sessions Judge or Deputy Commissioner may be exercised by any Magistrate of the first class whom the Local Government or the Sessions Judge or Deputy Commissioner to whom such Magistrate is subordinate may, after the commission of an offence punishable under section 2, specially invest with such jurisdiction for the purpose of trying such offence.

(*2*) In every trial held under this Regulation the Court shall follow the procedure for the trial of warrant-cases by Magistrates prescribed by Chapter XXI of the *Code of Criminal Procedure, 1898:

Provided that, where the Court is of opinion that any witness or evidence is offered for the purpose of vexation or delay or of defeating the ends of justice, it may require the accused person to satisfy it that there are reasonable grounds for believing that

* [illegible]

THE SECOND SCHEDULE.

[*See section 12, sub-section 2.*]

1. Any offence punishable under any of the following sections of the [1]Indian Penal Code, namely, sections 121, 121A, 122, 123, 124A, 125, 126, 127, 131, 144, 148, 150, 193, 194, 195, 196, 201, 211, 212, 216, 216A, 302, 304, 307, 308, 324, 325, 326, 328, 354, 363 to 369, 376, 377, 379 to 382, 386, 387, 392 to 399, 400, 401, 402, 411 to 414, 427 to 429, 435, 436, 440, 448 to 460, 494, 495, 497 and 498. XLV of 1860.

2. Any offence punishable under section 29 or section 30 of this Regulation.

3. Abetment of any of the offences aforesaid.

4. Attempt to commit any of the offences aforesaid, which are not themselves expressed to be attempts to commit offences.

REGULATION No. IV OF 1901.

A Regulation to make better provision for the suppression of murderous outrages in certain frontier tracts.

[*18th October, 1901.*]

WHEREAS it is expedient to make better provision for the suppression of murderous outrages in certain frontier tracts; It is hereby enacted as follows :—

Short title, commencement and extent.

1. (*1*) This Regulation may be called the Frontier Murderous Outrages Regulation, 1901; and

(*2*) It shall come into force at once.

(*3*) Save as otherwise provided by section 6, sub-section (*2*), it extends only to the territories for the time being administered by the Chief Commissioner of British Baluchistan; but the Local Government may, either of its own motion or at the request of the Judicial Commissioner, exempt any local area, or withdraw any case or class of cases, from the operation of all or any of its provisions.

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[1] Genl. Acts, Vol. I.

2 (*1*) Any fanatic who, within the meaning of the [1]Indian Penal Code, commits murder, or does any act with such intention or knowledge, and in such circumstances, that, if he by that act caused death, he would commit murder, shall be punishable with death or with transportation or imprisonment for life, and all his property shall be forfeited to the Government. Punishment of fanatic committing, or attempting to commit, murder

(2) Notwithstanding anything in section 393 of the [2]Code of Criminal Procedure, 1898, or in any other enactment for the time being in force, where any such fanatic as aforesaid is sentenced to transportation or imprisonment for life, he may also be sentenced to whipping in addition to such transportation or imprisonment.

3. Where any fanatic is killed in the act of committing an offence punishable under section 2, or, having been wounded and arrested in the act of committing any such offence afterwards dies of his wounds, the Court which, under the provisions of section 4, would have had cognizance of the offence if the offender could have been brought to trial may proceed to hold an inquest into the circumstances of the death of the fanatic, and, on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid, may adjudge that all his property shall be forfeited to the Government, and may dispose of his body as it may think fit. Forfeiture of property and disposal of body of fanatic killed in committing offence under section 2

4 (*1*) Any offence punishable under section 2 shall be tried by the Sessions Judge or Deputy Commissioner of the district in which it was committed: Court before which offences punishable under section 2 to be tried

Provided that the jurisdiction so conferred on the Sessions Judge or Deputy Commissioner may be exercised by any Magistrate of the first class whom the Local Government or the Sessions Judge or Deputy Commissioner to whom such Magistrate is subordinate, may, after the commission of an offence punishable under section 2, specially invest with such jurisdiction for the purpose of trying such offence.

(2) In every trial held under this Regulation the Court shall follow the procedure for the trial of warrant-cases by Magistrates prescribed by Chapter XXI of the [2]Code of Criminal Procedure, 1898:

Provided that, where the Court is of opinion that any witness or evidence is offered for the purpose of vexation or delay or of defeating the ends of justice, it may require the accused person to satisfy it that there are reasonable grounds for believing that such witness or evidence is material, and,

[1] Genl. Acts Vol. I.

[2] Genl Acts, Vol. V

where the Court is not so satisfied, it shall not be bound to summon the witness or examine the evidence so offered.

Trial to be with aid of assessors.

5. (1) Every trial held under this Regulation shall be conducted with the aid of two or more assessors as members of the Court.

(2) The Court may appoint such person, other than persons specified in section 278 of the [1]Code of Criminal Procedure, 1898, at such time, and in such manner, as it may think fit, to serve as assessors, and no persons shall be exempt, within the meaning of section 320 of the said Code, from liability to serve as such assessors. V of 1898.

(3) The provisions of the said Code shall, save as aforesaid, apply to assessors appointed under this section.

Contents of judgment and execution of sentence.

6. (1) When any trial held under this Regulation is concluded, if the accused person is convicted, it shall be sufficient if the Court, in passing judgment and recording the finding and sentence, specifies the offence of which he is convicted, and the Court shall immediately issue a warrant to the officer in charge of the prison in which the prisoner is confined, or to which the Court has, by its judgment or by a subsequent order, directed him to be transferred for this purpose, to cause the sentence to be carried into execution, and the sentence shall be carried into execution accordingly:

Provided that, where a sentence of death is passed, the Court may, from time to time, if it seems to it that the public interest so requires, extend the date fixed for the execution of the sentence, and the execution shall be postponed accordingly.

(2) The Court may, under sub-section (1), direct a prisoner to be transferred for the execution of a sentence passed upon him under this Regulation to any prison in British India, whether in the territories for the time being administered by the Chief Commissioner of British Baluchistan or not; and nothing in the [1]Prisoners Act, 1900, or in any other enactment for the time being in force, shall be deemed to preclude the officer in charge of such prison from carrying such sentence into execution. III of 1900.

(3) Notwithstanding anything in the [1]Code of Criminal Procedure, 1898, or in any other enactment for the time being in force, no sentence of death passed under this Regulation shall require confirmation by any Court. V of 1898.

Disposal of body of offender on execution of sentence of death passed under section 2.

7. When a sentence of death passed under section 2 has been carried into execution, the body of the offender shall be disposed of as the Court by which he was sentenced, shall direct.

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[1] Genl. Acts, Vol. V.

8 The proceedings in every trial held under this Regulation shall, without unnecessary delay, be reported by the Court to the Local Government

Proceedings to be reported to Local Government.

9 Notwithstanding anything in the [1] Code of Criminal Procedure, 1898, or in any other enactment for the time being in force, no appeal shall lie from any order made or sentence passed under this Regulation

No appeal from order or sentence under Regulation.

10 Where the Court is of opinion that a person charged with an offence punishable under section 2 is not so punishable, but has committed an offence punishable under the [2] Indian Penal Code, the accused person shall be dealt with in manner provided in such case by the [1] Code of Criminal Procedure, 1898

Procedure where offence charged is not punishable under section 2

11 The Local Government shall have, with respect to the confinement of any person charged with or suspected of an intention to commit, or abet the commission of an offence punishable under section 2, the powers vested in the Governor General in Council by any law for the time being in force regarding the confinement of persons charged with, or suspected of, State offences, and the provisions of any such law shall, *mutatis mutandis*, be applicable in every case in which the Local Government proceeds under the authority of this section

Power for Local Government to confine persons charged with, or suspected of, offence punishable under section 2.

12 Any Magistrate of the first class may cause any [illegible] there are, in his opinion, grounds for proceeding under section 11, to be [illegible] arrested, and may, after such inquiry as he may think necessary, [illegible] person in safe custody until he has received the orders of the Local Government, to which he shall in every such case, [illegible] his proceedings

13 (1) Any police officer may, [illegible] without a warrant, arrest any person [illegible] been received, or a reasonable [illegible] to commit, or abet the com[illegible] or who habitually protects or [illegible] who orally or in writing [illegible] of such offences

(2) Any such person [illegible] clause (f) of section 1 [illegible] desperate and dangerous [illegible] hazardous to [illegible]

[illegible]

sections 406, 514 and 515 of the said Code shall apply to him, except in so far as is otherwise provided in this Regulation.

(3) Where a Magistrate makes in respect of such person as aforesaid an order in writing as prescribed by section 118 of the said Code, he may direct such person, during the whole or part of the period of the bond,—

(a) to reside beyond the limits of the territories to which this Regulation extends, or at such place within the said limits as may be specified in the order; and

(b) if he is so directed to reside within the said limits, to notify his residence and every change of residence to such authority as may be specified in the order.

(4) Whoever, being bound over to be of good behaviour under this section, commits a breach of any direction under sub-section (3), shall be deemed to have forfeited his bond, and shall, in addition to any term of rigorous imprisonment to which he may be liable for breach of the conditions of his bond, be punishable with rigorous imprisonment for a term which may extend to one year, or with fine, or with both.

(5) Every order made under this section shall be at once reported to the Local Government, and the Local Government may revise any such order.

Further preventive and punitive measures.

14. (1) Where a fanatic has committed an offence punishable under section 2, the Court may, on the recommendation of a Council of Elders or after such inquiry as it may think necessary, take any of the following measures against any community, section of a community or individual with whom such fanatic is or has been associated in circumstances which satisfy the Court that, by reasonable prudence or diligence on the part of such community, section of a community or individual, the commission or attempted commission of such offence might have been prevented, namely:—

(a) it may impose a fine on such community, section of a community or individual and recover the same as if it were an arrear of land-revenue; or

(b) it may direct that such community, section of a community or individual shall forfeit, in whole or in part and for a term or in perpetuity, any assignment or remission of land-revenue or allowance payable out of public funds of which it or he may be in enjoyment.

(2) No order made under this section shall take effect until it has been confirmed by the Local Government.

(3) Nothing in this section shall affect the powers of the Local Government with respect to the grant, continuance or forfeiture, in whole or in part of any assignment or remission of land revenue or of any allowance payable out of public funds

Explanation —In sub section (*1*), the expression "Council of Elders" means a Council of three or more persons convened according to the Pathan, Biluch or other usage, as the Court may in each case direct

15 The Local Government may, by notification in the official Gazette, make and issue circular orders for the guidance of officers in carrying out the purposes and objects of this Regulation and every circular order so made and issued shall have effect as if enacted in this Regulation

16 Act XXIII of 1867 (*an Act for the suppression of murderous outrages in certain Districts of the Punjab*), Act IX of 1877 (*an Act to revive and amend Act No XXIII of 1867*) and so much of the Repealing Act, 1874, of the Baluchistan Laws Regulation 1890, and of the Repealing and Amending Act, 1891, as relates to the said Act XXIII of 1867, are hereby repealed in the territories to which this Regulation extends XVI of 1874. I of 1890. XII of 1891.

REGULATION No I OF 1907

A Regulation for conferring power to prevent persons from passing across the frontier out of certain Districts and from entering, or residing or travelling in, disturbed parts of [1]Upper Burma [2]* * *

[22nd [illegible]]

WHEREAS it is expedient that the Local Governmen [illegible] officers should have authority to prevent persons from [illegible] parts of [1]Upper Burma [3][[illegible] or unadministered territory [4][[illegible] or residing or travelling in, disturbed parts of [1] [illegible]], It is hereby enacted [illegible]

1 (*1*) This Regulation may be [illegible]] Frontier Crossing and [illegible]

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[1] To be construed as British [illegible] Regulation 1913 (2 of 1913) *infra* [illegible]
[2] The words or the Hill D[illegible] [illegible]
[3] The words "and the Hill [illegible]" [illegible]
[4] The words "or Shan or Karenni [illegible]" [illegible]
[5] The words "or of the Hill [illegible]" [illegible]
[6] The words "and Arakan Hill[illegible]" [illegible]

(2) It extends to the whole of[1] Upper Burma [2][. . . . and

(3) It shall come into force on such date as the Local Government may, by notification in the local official Gazette, appoint in this behalf.

Warning against passing from a notified district into foreign or unadministered territory. [3]* * * *

2. A person warned in the manner hereinafter provided shall not—

[[4] (a) pass across the frontier of British Baluchistan into any foreign territory.]

(b) while a notification under this clause is in force, pass from any part of the territories to which this Regulation extends into any other part of those territories to which the Local Government has, by notification in the local official Gazette, declared this clause to apply; or,

(c) while a notification under this clause is in force, reside or travel in any part of those territories to which the Local Government has, by notification in the local official Gazette, applied this clause and which is mentioned in the warning.

Service or publication of warning.

3. Every warning for the purpose of this Regulation shall be in writing and shall,—

(a) if addressed to an individual, be signed by the [5] Commissioner of the division or Deputy Commissioner of the district within which the individual dwells or may be found, and be served upon him in such manner as the Local Government may by general or special order prescribe;

(b) if addressed to a class of persons or to the public generally, be published, *with the previous sanction of the Governor General in* Council, in the local official Gazette and otherwise in such manner as the Local Government may by general or special order direct.

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[1] See footnote[1] on prepage.

[2] The words "and to the Hill District of Arakan" have been omitted, *see ibid.*

[3] See footnote[4] on prepage.

[4] Substituted by the British Baluchistan Laws Regulation, 1913 (2 of 1913) *infra* p. 209.

[5] To be construed as the Chief Commissioner of British Baluchistan, see Schedule I of the British Baluchistan Laws Regulation, 1913 (2 of 1913), *infra*, p. 209.

4. (*1*) If any person to whom a warning served or published under the last foregoing section is addressed disobeys, or attempts to disobey, the warning,— Consequence of disobedience to warning

(*a*) he shall be punished with fine which may extend to five hundred rupees, and

(*b*) the Local Government may order him to remove to such place within the territories to which this Regulation extends as it may direct in this behalf

(*2*) If any person contravenes any order under sub-section (*1*) clause (*b*), the[1] Commissioner of the division or Deputy Commissioner of the district within which the person is dwelling or may be found may cause him to be arrested and detained in custody until he accepts his release upon such conditions as the Local Government thinks fit to impose

5. (*1*) If the [1] Commissioner of the division or Deputy Commissioner of the district within which any person, whether a European British subject or not, is dwelling or may be found, reasonably suspects that the person intends to disobey a warning served on him or punished in accordance with section 3, the Commissioner or Deputy Commissioner may require such security for his good behaviour for a period not exceeding six months as the Commissioner or Deputy Commissioner may deem sufficient Power to Commissioner or Magistrate to require security for good behaviour in certain cases.

(*2*) The provisions of the [2] Code of Criminal Procedure, 1898, sections 112 to 126 (both inclusive), and section 514 shall so far as they can be made applicable, apply to all cases under this section

6. The Upper Burma Frontier Crossing and Disturbed District Regulation, 1887, and so much of the Third Schedule to the [3]Burma Laws Act, 1898, as relates to the aforesaid Regulation, are hereby repealed Repeal

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[1] To be construed as the Chief Commissioner of British Baluchistan, *see* Schedule I of the British Baluchistan Laws Regulation, 1913 (2 of 1913) *infra*, p 209

[2] Genl Acts, Vol V

[3] Bur Code, 1910, p 129

THE BRITISH BALUCHISTAN BAZARS REGULATION, 1910 (V OF 1910).

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REGULATION No. V OF 1910

A Regulation to make better provision for the administration of certain Bazars in British Baluchistan.

[*21st September, 1910*]

WHEREAS it is expedient to make better provision for the administration of certain bazars in British Baluchistan, It is hereby enacted as follows —

CHAPTER I

PRELIMINARY.

1 (*1*) This Regulation may be called the British Baluchistan Bazars Regulation, 1910 Title, extent and commencement.

(2) It extends to the whole of British Baluchistan, and

(3) It shall come into force at once, but shall not be operative except in such local areas as may be declared to be bazars under this Regulation

2 In this Regulation, unless there is anything repugnant in the subject or context,— Definitions

(i) "bazar" means any local area declared by or under this Regulation to be a bazar;

(ii) "Chief Commissioner" means the Chief Commissioner of British Baluchistan

(iii) "Commissioner" means the Revenue Commissioner in British Baluchistan

(iv) "Deputy Commissioner" means the Deputy Commissioner for the time being exercising jurisdiction within a bazar, and, in the absence of the Deputy Commissioner, such officer as may be appointed, by name or by virtue of his office, by the Chief Commissioner to discharge the duties of the Deputy Commissioner under this Regulation

(v) "inhabitant" includes any person ordinarily residing or carrying on business or owning or occupying immoveable property in a bazar.

(vi) "notification" means a notification published by authority of the Chief Commissioner in the Gazette of India

(vii) "notified" means published as aforesaid:

(viii) "owner" includes the person for the time being receiving the rent of any land or building, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or who would so receive the same if the land or building were let to a tenant;

(ix) "prescribed" means prescribed by rules made by the Chief Commissioner under this Regulation: and

(x) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway.

Constitution of bazar.

3. (*1*) The Chief Commissioner may, by [1]notification, declare any town or village or group of towns or villages, together with or exclusive of any railway-station, building or land in the vicinity of any such town or village or group of towns or villages, to be a bazar, and may in such notification direct that any bazar so declared shall be exempt from the operation of any section of this Regulation:

Provided that no military cantonment or part of a military cantonment shall, without the consent of the Governor General in Council, be comprised in any such notification:

Provided also that no town or village or group of towns or villages shall be comprised in any such notification if it contains more than ten thousand inhabitants according to the returns of the most recent official census or is a purely agricultural village.

(*2*) The Chief Commissioner may at any time cancel or modify any notification under sub-section (*1*).

(*3*) When by reason of any order of cancellation under the last foregoing sub-section any area ceases to be a bazar under this Regulation, the unexpended proceeds of any taxes levied therein shall be applied for the benefit of the inhabitants of the said area as the Chief Commissioner may think fit.

CHAPTER II.

OFFICERS AND SERVANTS.

Employment of officers and servants.

4. Subject to the other provisions of this Regulation and to the general control of the Commissioner and of the Chief Commissioner, the appointment of

[1]For notification declaring the town of Sibi in conjunction with certain other villages to be a bazar, *see* Gazette of India, 1910, Part II, p. 1738.

such officers and servants as may be necessary or proper for the efficient execution of the provisions of this Regulation shall rest with the Deputy Commissioner

5. (*1*) In the case of an officer or servant appointed under the preceding section or employed before the commencement of this Regulation who is not a Government official, the Deputy Commissioner may— Pensions and other allowances of officials not being Government servants

(*a*) grant him leave-allowances,

(*b*) if his monthly pay does not exceed ten rupees, grant him a gratuity on resignation or retirement,

(*c*) with the sanction of the Commissioner, grant him a gratuity or subscribe on his behalf for pension or gratuity under the rules contained in any general or special orders of the Governor General in Council for the time being in force, or purchase for him from the Government or otherwise an annuity on his retirement

Provided that no pension, gratuity leave allowance or annuity shall exceed the sum to which, under any general or special orders of the Governor General in Council for the time being in force the officer or servant would be entitled if the service had been service under the Government

(*2*) In the case of an officer or servant being a Government official, the Deputy Commissioner may,— Pensions and other allowances of Government servants

(*a*) if his services are wholly lent to the Deputy Commissioner for employment in a bazar, meet any charges prescribed or authorized by any general or special orders of the Governor General in Council, for the time being in force, regarding contributions towards pension or gratuity and leave-allowances, and

(*b*) if he devotes only a part of his time to the performance of duties connected with a bazar, meet any such charges as aforesaid in such proportion as may be determined by the Commissioner

(*3*) Nothing in this or in any other section of this Regulation contained shall be deemed to prohibit the establishment of a Provident Fund by the officers or servants paid from a Bazar Fund under this Regulation, not being Government officials, or to debar the Deputy Commissioner, if otherwise expressly authorized by the Chief Commissioner in this behalf, from contributing from the Bazar Fund towards such Provident Fund at such rates and under such conditions as the Deputy Commissioner may, by rules to be confirmed by the Chief Commissioner, fix and apportion for such purpose.

CONTRACTS.

Authority to contract and mode of executing contracts.

6. (1) The Deputy Commissioner may enter into any contract for work to be performed for the benefit of a bazar.

(2) Every such contract whereof the value or amount exceeds fifty rupees shall be in writing.

(3) Every such contract shall be signed by the Deputy Commissioner.

(4) If a contract to which this section applies is executed otherwise than in conformity therewith, it shall not be binding on the Deputy Commissioner.

DELEGATION OF AUTHORITY.

Delegation of authority.

7. The Deputy Commissioner may, by general or special order, delegate to any officer not below the rank and status of a Tahsildar all or any of his powers under Chapters V and VI:

Provided that from any order passed by an officer so empowered under these Chapters, an appeal shall lie to the Deputy Commissioner.

CHAPTER III.

TAXATION.

Taxes which may be imposed.

8. (1) Subject to any general rules or special orders which the Governor General in Council may make in this behalf, the Chief Commissioner may, from time to time, for the purposes of this Regulation and in the manner by this Regulation directed, impose in any bazar any of the following taxes:—

(a) a tax on buildings and lands not exceeding seven-and-a-half per centum on the annual value;

(b) a tax on persons practising any profession or art or carrying on any trade or calling in the bazar, not exceeding two-and-a-half per centum on the annual income derived from such practice, trade or calling;

(c) a tax not exceeding four rupees a quarter on every vehicle, animal used for riding, driving, draught or burden, or dog kept within the bazar;

(d) a toll not exceeding one anna on every vehicle and every animal used as aforesaid entering the bazar;

(e) an octroi on animals for slaughter or goods, or both, brought within the bazar for consumption or use therein;

and, with the previous sanction of the Governor General in Council, any other tax

Provided that any person may compound for exemption from all tolls leviable in respect of any animal or vehicle under clause (*d*) of this sub section by paying the tax which would have been leviable in respect thereof under clause (*c*) if the same had been kept within the bazar

Provided also that goods, which are the property of Government at the time of import, shall pass free of any octroi imposed under clause (*e*) if accompanied by an invoice, with an endorsement signed by the proper Government officer certifying that they are the property of the Government

(2) In this section "annual value" means the gross annual rent for which buildings or lands liable to taxation may reasonably be expected to let

9. When the Deputy Commissioner has with regard to any buildings or lands, in exercise of the powers conferred by this Regulation, provided for the performance by officers or servants of the bazar appointed under this Regulation of the duties usually performed by sweepers, he may, with the previous sanction of the Chief Commissioner and in the manner by this Regulation directed, impose upon those buildings and lands, in addition to any other tax imposed upon them under this Regulation, a tax, to be called the scavenging-tax, at such rate or of such amount as he thinks fit Scavenging tax

Provided that in fixing the rate or amount of such tax regard shall be had to the principle that the total net proceeds of the tax should not exceed the cost of the performance of the said duties

10. Besides the taxes mentioned in the foregoing sections, the Deputy Commissioner, with the previous sanction of the Chief Commissioner, may, for the purpose of constructing or maintaining works for the supply of water to a bazar or paying the principal or interest of any loan raised for the construction of such works, impose, in the manner by this Regulation directed, a tax, to be called the water tax, upon buildings or lands in a bazar which are so situated that their occupiers can benefit by the works Water tax

Provided that, in fixing the rate of such tax, regard shall be had to the principle that the total net proceeds of the tax, with the estimated income from payments for water supplied from the works under special contracts, should not exceed the amount required for the said purpose

11 (*1*) No tax shall come into force until one month after it has been notified Notification of and power to abolish or reduce taxes

(*2*) The Chief Commissioner may, by notification, abolish or reduce in amount any tax imposed under the foregoing sections

Power to exempt from taxation.

12. (*1*) The Deputy Commissioner may, by order, exempt in whole or in part from the payment of any such tax any person who by reason of poverty may in his opinion be unable to pay the same.

(*2*) The Governor General in Council may, by order, exempt in whole or in part from the payment of any such tax any person or class of persons or any property or description of property.

Taxes not invalid for defect of form.

13. No tax imposed under this Regulation shall be invalid merely for defect of form; and it shall be enough, in the case of any such tax on property or any assessment of value for the purpose of any such tax, if the property taxed or assessed is so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

Taxes when paid.

14. Any tax imposed under the foregoing sections and payable periodically shall be payable on such dates and in such instalments (if any) as the Deputy Commissioner may, from time to time, prescribe.

Receipts to be given.

15. For all sums paid on account of any tax under this Regulation a receipt, stating the amount and the tax on account of which it is paid, shall be given, on his application, to the person making the payment.

Appeals against taxation.

16. (*1*) An appeal against the assessment or levy of any tax under this Regulation shall lie to the Commissioner.

(*2*) Subject to revision by the Chief Commissioner, the order of the appellate authority shall be final.

Limitation for appeals.

17. (*1*) No appeal shall lie in respect of a tax on any buildings or land in a bazar unless it is preferred within one month after the publication of the notice of assessment to be prescribed under section 88, and no appeal shall lie in respect of any other tax levied under this Regulation unless it is preferred within one month from the time when the demand for the tax is made:

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the appellate authority that he had sufficient cause for not presenting it sooner.

(*2*) No appeal shall be entertained unless the amount of the tax levied under this Regulation to which it relates is deposited with the Deputy Commissioner before the appeal is preferred.

Taxation not to be questioned except under Regulation.

18. No objection shall be taken to any valuation or assessment made under this Regulation, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than in this Regulation provided.

Power to examine article

19. Every person bringing or receiving within a bazar any article on which octroi is payable shall when required by an officer authorized by the

Deputy Commissioner in that behalf and so far as may be necessary for ascertaining the amount of tax chargeable,— liable to octroi

(a) permit that officer to inspect, examine, weigh or otherwise deal with the article, and

(b) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature that he may possess relating to the article

20. If after the imposition of an octroi tax any person bringing or receiving a conveyance or package within a bazar refuses, on the demand of an officer authorized by the Deputy Commissioner in this behalf, to permit such officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi is payable, such officer may cause the conveyance or package to be taken without unnecessary delay before a Magistrate, who shall cause the inspection to be made in his presence Power to search where octroi is leviable

21. Every officer demanding octroi by authority of the Deputy Commissioner shall tender to every person introducing or receiving any article on which the tax is claimed, a bill specifying the article taxable, the amount claimed and the rate at which the tax is calculated Presentation of bill for octroi

22. (1) In case of non-payment of octroi on demand, the officer empowered to collect the same may seize any article on which it is chargeable, or any part thereof of sufficient value to satisfy the demand Recovery of octroi

(2) The Deputy Commissioner may, after the lapse of five days from the seizure and the issue of a proclamation fixing the time and date of sale, cause the property so seized, or so much thereof as is necessary, to be sold by auction to satisfy the demand, with the expenses occasioned by the seizure, custody and sale thereof, unless the demand and expenses are in the meantime paid

Provided that articles of a perishable nature may be sold after the lapse of such shorter time as the Deputy Commissioner, having regard to the nature of the articles, may think necessary in order to avoid serious risk or damage

23. All taxes leviable in a bazar under the order of the Chief Commissioner or of the Governor General in Council at the time when this Regulation comes into force shall, so far as their imposition and [illegible] are [illegible] with this Regulation and within the powers [illegible], be [illegible] to have been imposed and assessed under this [illegible] [illegible]

CHAPTER IV.

BAZAR FUND AND PROPERTY.

Constitution of Bazar Fund.

24. (1) In each bazar there shall be formed a Bazar Fund, and there shall be placed to the credit thereof—

(a) all sums received for expenditure on a bazar under this Regulation or otherwise;

(b) all fines realised in cases in which prosecutions are instituted under this Regulation or the rules made thereunder, or under section 14 of the [1]Police Act, 1861, or under the [2]Prevention of Cruelty to Animals Act, 1890, for offences committed within the bazar; V of XI o

(c) the balance (if any) standing at the credit of any Local Fund existing at the date on which this Regulation becomes operative, for the benefit of the bazar; and

(d) the proceeds of such property, moveable and immoveable, as may for the time being be administered for the benefit of the Bazar Fund;

and this fund, together with all property purchased at its expense, shall be vested in the Chief Commissioner for the time being; and, subject to the provisions of this Regulation and of the rules made thereunder, and to the control of the Chief Commissioner, the management thereof shall be entrusted to the Deputy Commissioner.

(2) The property referred to in clause (d) of sub-section (1) includes—

(a) land or other property acquired by the Deputy Commissioner for local public purposes or under competent authority constituted the property of the Bazar Fund;

(b) dust, dirt, sewage, refuse, filth and rubbish of any kind collected under the orders of the Deputy Commissioner from the streets, houses, privies, sewers, cesspools or elsewhere, or deposited in any place set apart by him for that purpose.

Application of Fund.

25. (1) The Deputy Commissioner shall, subject to the provisions of this Regulation, set apart and apply annually out of the Bazar Fund—

(a) first, such sum out of the net proceeds of the octroi receipts as the Governor General in Council may from time to time direct to be paid as a contribution to the fund of any neighbouring cantonment;

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[1] Genl. Acts, Vol. I.

[2] Genl. Acts, Vol. IV.

(b) secondly, such sum as may be required for the payment of any amounts falling due on any loan legally contracted for, or on behalf of, the Bazar Fund,

(c) thirdly, such sum as may be required to meet the charges of the Bazar Fund establishment, including such subscriptions, contributions and payments as are referred to in section 5

(2) Subject to the charges specified in sub section (1) and to such rule as the Chief Commissioner may make with respect to the priority to be given to the several calls thereon, the Bazar Fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the Bazar, namely .—

(a) the construction, maintenance improvement, cleansing and repair of public streets, bridges, drains, latrines, and water-courses,

(b) the watering and lighting of such streets or any of them,

(c) the construction, establishment and maintenance of rest-houses markets, pounds and other works of public utility,

(d) grants-in aid to schools, hospitals, dispensaries, poor houses, leper asylums and other educational or charitable institutions,

(e) the supply, storage and preservation from pollution of water for the use of men or animals,

(f) the planting and preservation of trees and gardens

(g) the taking of a census, the registration of births marriages and deaths, public vaccination and any other sanitary measure,

(h) the destruction of stray and ownerless dogs,

(i) all acts and things which are likely to promote the safety health welfare or convenience of the inhabitants, or expenditure which may be declared by the Deputy Commissioner with the sanction of the Commissioner, to be an appropriate charge on the Bazar Fund

26. (1) In places where there is a Government treasury or sub treasury, the Bazar Fund shall be kept in such treasury or sub treasury *Custody of Bazar Fund*

(2) In places where there is no such treasury or sub treasury, the Bazar Fund may be kept in such treasury or sub-treasury as may be appointed by the Commissioner

27. (1) The Deputy Commissioner may, from time to time, with the previous sanction of the Chief Commissioner, invest any portion of the Bazar Fund in securities of the Government of India or such other securities as the Governor General in Council may, from time to time approve in this *Investment of same*

behalf, and may vary such investments for others of a like nature, and may, with like sanction, realise any investments made under this sub-section.

(2) The income resulting from the securities and the proceeds of the sale of the same shall be credited to the Bazar Fund.

CHAPTER V.

POWERS FOR SANITARY AND OTHER PURPOSES.

Streets and Buildings.

Power to acquire land for building sites adjoining new streets.

28. When any land in a bazar is required for a new street or for the improvement of an existing street, the Deputy Commissioner may cause to be acquired, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street.

Power to close streets.

29. The Deputy Commissioner may close temporarily any streets or parts thereof for any public purpose, and with the Chief Commissioner's permission may divert, discontinue or permanently close any street.

Power to permit temporary occupation of streets, etc.

30. The Deputy Commissioner may grant permission in writing for the temporary occupation of any street for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, subject to such conditions and the payment of such fees as he may prescribe, and may at his discretion withdraw such permission.

Power to attach brackets for lamps.

31. The Deputy Commissioner may attach to the outside of any building brackets for lamps in such manner as not to cause injury thereto or inconvenience.

Names of streets and numbers of buildings.

32. (*1*) The Deputy Commissioner may name any street, and cause that name and likewise any number to be affixed on any building, and may from time to time cause the same to be altered.

(*2*) Whoever destroys, pulls down, alters or defaces any such name or number shall be punishable with fine which may extend to twenty rupees.

Notice of new buildings.

33. (*1*) Every person intending to erect, re-erect, alter or repair any upper storey or other building shall give notice in writing of his intention to the Deputy Commissioner, and shall, if required to do so, submit a plan showing the levels at which the foundations and lowest floor are proposed to be laid and specifications of the works intended to be constructed and the materials to be used, and shall obey any written directions consistent with this Regulation given by the

Deputy Commissioner thereupon, and the Deputy Commissioner may prohibit such erection, re erection, alteration or repair, if in his opinion it is likely to be injurious to the neighbourhood or in respect of free passage or roadway, free circulation of air, facilities of scavenging, ventilation, drainage level, stability, line of frontage or any other matter which the Chief Commissioner may from time to time prescribe.

Provided that no compensation shall be claimable on account of any direction or prohibition under this section

(2) If the erection, re erection alteration or repair of any building is begun without the permission of the Deputy Commissioner, or in disobedience to any direction issued by the Deputy Commissioner under this section, or continued contrary to those directions, the Deputy Commissioner may, by notice in writing, require such building to be altered or demolished, and the person so erecting, re-erecting, altering or repairing shall be punishable with fine which may extend to five hundred rupees

Removal of obstructing projections and encroachments

34. The Deputy Commissioner may, by notice in writing require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction built or placed against or in front thereof if the same overhangs or projects into or encroaches on any street, public drain, aqueduct or sewer

Bathing and washing places

Bathing and washing places

35 The Deputy Commissioner may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any purpose connected with the health cleanliness and comfort of the inhabitants, and may, by public notice, prohibit bathing, or the washing of animals or clothes, in any public place not so set apart or at times or by persons other than those specified, and all other acts by which water in public places may be rendered foul or unfit for use

Deposit of offensive matter and slaughter-places.

Removal and deposit of offensive matter

36. The Deputy Commissioner may fix places within, or beyond, the limits of a bazar for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or the dead bodies of animals may be removed along any street and deposited at such places.

Places for slaughter of animals.

37. (*1*) The Deputy Commissioner may fix and abolish places either within or beyond the limits of a bazar for the slaughter of animals or any specified description of animals for sale, and may grant and withdraw licenses for the use of such places, or, if they belong to a Bazar Fund, charge rent or fees for the use of the same.

(*2*) When any such place has been fixed, no person shall slaughter any such animals for sale within a bazar at any other place.

(*3*) Whoever slaughters any such animal at any other place for sale within a bazar shall be punishable with fine which may extend to twenty rupees.

Burial and burning places.

Powers in respect of burial and burning places.

38. (*1*) The Deputy Commissioner may by public notice order any burial or burning ground which is, in his opinion, dangerous to the health of persons living in the neighbourhood, to be closed from a date to be specified in the notice.

(*2*) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the Deputy Commissioner may impose in this behalf.

(*3*) No burial or burning ground, whether public or private, shall be made or formed after the passing of this Regulation without the permission in writing of the Deputy Commissioner.

(*4*) Whoever buries or burns, or causes or permits to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, shall be punishable with fine which may extend to fifty rupees.

(*5*) The Deputy Commissioner may by public notice prescribe routes for the removal of corpses to burial or burning places.

Inflammable materials.

Inflammable materials.

39. The Deputy Commissioner may, where it appears to him to be necessary for the prevention of danger to life or property, by public notice, prohibit all persons from stacking or collecting wood, straw or other inflammable materials, or placing mats, erecting booths or thatched huts, or lighting fires, in any place or within any limits specified in the notice.

Powers of entry and inspection.

Inspection of drains, privies and cesspools.

40. (*1*) The Deputy Commissioner, or any person authorized by him in this behalf, may, after giving six hours' notice in writing to the occupier of any land or building in which any drain, privy or cesspool is situated, inspect any such drain, privy or cesspool at any time between sunrise and sunset, and

may, if necessary, cause the ground to be opened wherever he may think fit for the purpose of preventing or removing any nuisance arising therefrom

(2) If on such inspection it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner of the land or building or by the occupier, as the Deputy Commissioner may direct, but if it is found that no nuisance exists, or but for such opening would have existed the ground shall be closed and made good as soon as may be and the expense of opening, closing and making it good shall be paid from the Bazar Fund

41. The Deputy Commissioner or any person authorized by him in this behalf, may, after giving twenty-four hours notice in writing to the occupier, or, if there is no occupier to the owner, of any building at any time between sunrise and sunset, enter and inspect the building, and may by notice direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected or otherwise cleansed for sanitary reasons — Power to enter and inspect buildings etc

42. The Deputy Commissioner or any person authorized by him in this behalf, may, after giving twenty-four hours' notice in writing to the occupier, or, if there is no occupier, to the owner, of any building or land at any time between sunrise and sunset— — Other powers of entry on building or land

(a) enter on and survey and take levels of any land,

(b) enter, inspect and measure any building for the purpose of valuation, or

(c) enter into any building or any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains, or of executing or repairing any work authorized by this Regulation

43. The Deputy Commissioner, or any person authorized by him in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any vehicle or animal liable to taxation under this Regulation, for which a license has not been duly taken out — Power to enter for discovery of vehicles or animals liable to taxation

44. The Deputy Commissioner, or any person authorized by him in writing in this behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale of food or drink for human consumption, or as a slaughter house, or for the sale of drugs, and inspect and examine any food or drink, animal or drug which may be therein, and, if any article of food or drink or any animal therein appears to be — Power to inspect places for sale of food or drink, etc and to seize unwholesome articles exposed for sale.

intended for human consumption and to be unfit therefor, may seize and remove the same or may cause it to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such consumption;

and, in case any drug is reasonably suspected to be adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may remove the same, giving a receipt therefor, and may cause it to be brought before a Magistrate for inquiry whether any offence has been committed in respect thereof, and for his orders as to its disposal.

Power of entry for purposes of scavenging.

45. (*1*) The Deputy Commissioner may provide for the performance by servants of the bazar of the duties usually performed by sweepers in respect of any buildings or lands, or of any drains, privies, cesspools or other receptacles for offensive matter pertaining to buildings or land.

(*2*) Such provision may be made in respect of individual buildings or lands or of buildings or lands generally.

(*3*) Nothing in this section or section 9 shall be deemed to preclude the Deputy Commissioner from making provision of a different nature for different buildings or lands, and charging scavenging-tax at different rates therefor, or from exempting wholly or in part from such tax at his discretion any individual who has made arrangements to his satisfaction for the performance of the duties aforesaid.

(*4*) When the Deputy Commissioner has undertaken to provide for the performance of such duties as aforesaid, the persons employed by him to perform the same may enter on the property at all reasonable times so far as may be necessary for the proper discharge of those duties; and the Deputy Commissioner, or any person authorized by him in this behalf, may enter on the property at all reasonable times for the purpose of ascertaining that such duties have been duly performed.

Precautions [illegible] be observed entering [illegible]lling.

46. When any building used as a human dwelling is entered under this Regulation, due regard shall be paid to the social and religious sentiments of the occupiers, and before any apartment in the actual occupation of any woman, who, according to custom, does not appear in public, is entered under this Regulation, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

Water-pipes, privies and drains.

Troughs and pipes for rain-water.

47. The Deputy Commissioner may, by notice in writing, require the owner of any building in any street to put up and keep in good condition

proper troughs and pipes for receiving and carrying the water from the roof and other parts thereof and for discharging the same, so as not to inconvenience persons passing along the street

Provision of privies, etc

48. (*1*) The Deputy Commissioner may, by notice in writing, require the owner of any building to provide any privy or cesspool or additional privies or cesspools which should in his opinion be provided for the building

(*2*) The Deputy Commissioner may, by notice in writing, require the owner or occupier of any building or land to have any privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as he directs, any door or trap door of a privy opening on to any street or drain

(*3*) The Deputy Commissioner may, by notice in writing, require any person employing more than twenty workmen or labourers to provide such latrines and urinals as the Deputy Commissioner may think fit, and to cause the same to be kept in proper order and to be daily cleansed

Construction repairing and closing of drains, privies and cesspools

49. (*1*) The Deputy Commissioner may, by notice in writing, require the owner or occupier of any building or land to repair or alter and put in good order any drain, privy or cesspool or to close any cesspool belonging thereto.

(*2*) The Deputy Commissioner may, by notice in writing, require any person who constructs any new drain, privy or cesspool without his permission in writing or contrary to his directions or rule or to the provisions of this Regulation, or who constructs, rebuilds or opens any drain, privy or cesspool which has been ordered to be demolished or closed or not to be made, to demolish such drain, privy or cesspool or to make such alteration therein as he thinks fit

Unauthorized buildings over drains etc.

50 The Deputy Commissioner may, by notice in writing, require any person who, without his permission in writing, newly erects or rebuilds any building over any public sewer, drain, culvert, water-course or water-pipe, to pull down or otherwise deal with the same as he thinks fit

[illegible]

51. The Deputy Commissioner may, by notice in writing, require any owner or occupier on whose land any drain, latrine, urinal, cesspool or other receptacle for filth or refuse for the time being exists within [illegible] feet of any spring, well, reservoir or other water-course, to [illegible] or close the same within *one* week

52. The Deputy Commissioner may, by [illegible] writing, require any [illegible] owner or occupier of any land or building [illegible], cover, fill up [illegible]

or as a store-house for kerosine, petroleum, naphtha or any inflammable oil, spirit or explosive substance;

shall register the same in a book to be kept by the Deputy Commissioner for the purpose.

(*2*) No place shall be newly used for any of the said purposes except under a license from the Deputy Commissioner which shall be renewable annually.

(*3*) The license shall not be withheld unless the Deputy Commissioner considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the immediate neighbourhood.

(*4*) The Deputy Commissioner may charge such fees for such licenses and may impose such conditions in respect thereof as he may deem fit.

(*5*) Whoever without such registration or without a license uses any place for any such purpose shall, on conviction, be punishable with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day during which the offence is proved before a Magistrate to have been persisted in after he has been convicted thereof; and the Deputy Commissioner may, after conviction, by notice in writing, direct that the use of such place for such purpose shall be discontinued.

(*6*) The Deputy Commissioner, or any person specially authorized by him in writing in this behalf, may at any time enter and inspect any place or building which there is reason to believe is used without license for any of the purposes enumerated in this section.

Power to prohibit such trades.

62. (*1*) If it is shown to the satisfaction of the Deputy Commissioner that any place licensed under section 61 is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, he may, by notice in writing, require the occupier thereof to discontinue the use of the place, or to use it in such manner as will in the opinion of the Deputy Commissioner render it no longer a nuisance or dangerous.

(*2*) Whoever after such notice has been given uses the place or permits it to be used in disregard of such requisition shall, on conviction, be punishable with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every subsequent day during which the offence is proved before a Magistrate to have been persisted in.

Execution of acts required to be done by any notice.

63. (*1*) When any notice under this Chapter requires any act to be done for which no time is fixed by this Regulation, it shall fix a reasonable time for doing the same.

(2) When the owner or occupier of any land or building fails to comply with the terms of any notice under this Chapter requiring him to do any act upon that land or building, the Deputy Commissioner may, after six hours' notice in writing, cause that act to be done, and may recover the expenses incurred in so doing from the person in default

Compensation for damage caused by powers under this Regulation

64. The Deputy Commissioner may make compensation out of the Bazar Fund to any person sustaining damage by reason of the exercise of any of the powers vested in him, his officers and servants under this Regulation, and shall make such compensation where the person sustaining the damage was not himself in default in respect of the matter in respect of which the power was exercised where the compensation is claimable on account of injury to buildings or land, it shall be calculated with due regard to the provision of the [1]Land Acquisition Act, 1894

Restraint of infection

Information to be given of cholera or small pox or plague

65. Whoever,—

(a) being a medical practitioner or a person openly and constantly practising the medical profession and in the course of such practice becoming cognizant of the existence of cholera or small pox or plague in any dwelling other than a public hospital, or, in default of such medical practitioner or person practising the medical profession,

(b) being the owner or occupier of such dwelling, and being cognizant of the existence of cholera or small-pox or plague therein, or, in default of such owner or occupier,

(c) being the person in charge of, or in attendance on, any person suffering from cholera or small pox or plague in such dwelling, and being cognizant of the existence of the disease therein,

fails to give information, or gives false information, to the Deputy Commissioner respecting the existence of such disease, shall be punishable with fine which may extend to fifty rupees

Provided that a person not required to give information in the first instance but only default of some other person, shall not be punishable if it be shown that he had reasonable cause to suppose that the information had been, or would be, duly given

[illegible]

66. When any person suffering from cholera or small-pox or plague is—

(a) without proper lodging or accommodation, or

(b) living in a sarai or other public [illegible]

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[1] [illegible]

(c) living in a room or house which he neither owns nor pays rent for, or

(d) lodged in premises occupied by members of two or more families, and any of such occupiers objects to his continuing to lodge in such premises,

the Deputy Commissioner, by any person authorized by him in this behalf, may, on the advice of any medical officer, remove the patient to any hospital or place at which persons suffering from such disease are received for medical treatment, and may do anything necessary for such removal.

Prohibition by Deputy Commissioner of use of unwholesome water.

67. Should the Deputy Commissioner consider that the water in any well, tank or other place is likely, if used for drinking, to engender or cause the spread of any dangerous disease, he may, by public notice, prohibit the removal or use of such water for drinking.

Powers for certain purposes.

68. The Deputy Commissioner may, by bye-law and with the previous sanction of the Chief Commissioner,—

(a) prohibit the manufacture or preparation for sale of any specified articles of food or drink in any premises not licensed by the Deputy Commissioner;

(b) regulate the grant and withdrawal of licenses to premises for the manufacture or preparation for sale of such specified articles of food or drink;

(c) regulate the hours and manner of transport within a bazar of any specified articles of food or drink;

(d) fix the places in which any specified article of food or drink may be sold or exposed for sale or the places in which it may not be sold or exposed for sale;

(e) fix the conditions on which licenses under this section are to be granted and may be revoked:

Provided that no person shall be punishable for breach of any bye-law made under clause (a) or clause (d) by reason of the continuance of such manufacture, preparation or exposure for sale or sale upon any premises which are, at the time of making of such bye-law, used for such purposes, until he has received from the Deputy Commissioner six months' notice in writing to discontinue such manufacture, preparation or exposure for sale or such sale in such premises.

CHAPTER VI

OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY OR CONVENIENCE

69 Whoever, without the permission of the Deputy Commissioner or in disregard of his orders, throws or deposits or permits his servants or members of his household under his control to throw or deposit earth or materials of any description, or refuse, rubbish or offensive matter of any kind upon any street or public place, or into any public sewer or any drain communicating therewith, shall be punishable with fine which may extend to twenty rupees

Depositing or throwing earth or materials or refuse, rubbish or offensive matter on roads or into drains.

70. Whoever, without the permission of the Deputy Commissioner, causes or knowingly or negligently allows the water of any sink sewer or cesspool or any other offensive matter to pass or be put upon any street or public place or into any sewer or drain not set apart for the purpose, shall be punishable with fine which may extend to twenty rupees

Discharging sewage.

71. Whoever, being the owner or occupier of any building or land, keeps or knowingly or negligently allows to be kept for more than twenty-four hours or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth, or any noxious or offensive matter, in or upon such building or land, or suffers any such receptacle to be in a filthy or nox[illegible] state, or neglects to employ proper means to cleanse and purify the [illegible] shall be punishable with fine which may extend to fifty rupees

Non removal of filth, etc.

72 Whoever, without the permission of the Deputy C[illegible] or causes to be made, or alters or causes to be altered, any [illegible] any public sewer or drain under the management of the D[illegible] shall be punishable with fine which may extend to [illegible]

[illegible]

73 Whoever, without the permission of the D[illegible] or keeps for a longer time than one week after [illegible] drain, latrine, urinal, cesspool or other re[illegible] feet of any spring, well, tank, reservoir or [illegible] may be derived for public use, shall be [illegible] extend to twenty rupees, and, when [illegible] fine not exceeding five rupees for [illegible] nued after the lapse of the period [illegible]

[illegible]

74. Whoever keeps any [illegible] Commissioner may give to [illegible] any other animals so as to be [illegible] shall, on conviction, be [illegible]

rupees, and with a further fine which may extend to five rupees for every day after the date of the conviction during which the offence is proved before a Magistrate to have been persisted in.

Feeding animals on deleterious substances.

75. Whoever feeds or allows to be fed any animal which is kept for dairy purposes or may be used for food on deleterious substances, filth or refuse of any kind, shall be punishable with fine which may extend to fifty rupees.

Driving vehicles without proper lights.

76. Whoever drives any vehicle after dark in any public street or thoroughfare unless the vehicle is properly supplied with lights, or there is sufficient moonlight to render lights unnecessary, shall be punishable with fine which may extend to twenty rupees.

Discharging fire-arms, fire-works, etc.

77. Whoever discharges fire-arms or air-guns or lets off fire-works or fire-balloons, or engages in any game in such a manner as to cause danger to persons passing by or dwelling or working in the neighbourhood or risk of injury to property, shall be punishable with fine which may extend to twenty rupees.

Control of camels.

78. Whoever, being a camel-driver, omits, on being requested to do so, to remove his camel so far as may be practicable to a safe distance on the approach of a horse, whether ridden or driven, shall be punishable with fine which may extend to twenty rupees.

Suffering dogs to be at large.

79. Whoever, being the owner or person in charge of any dog which is likely to annoy or intimidate passengers, neglects to restrain it so that it shall not be at large without a muzzle in any street or public place, shall be punishable with fine which may extend to twenty rupees.

Destruction of mad dogs.

80. (*1*) The Deputy Commissioner, by any person authorized by him in this behalf, may destroy or cause to be destroyed or confined, or cause to be confined, for such period as the Deputy Commissioner may direct, any ownerless dog or any dog suffering from rabies or reasonably suspected to be suffering from rabies.

(*2*) No damages shall be payable in respect of any dog destroyed under this section.

Altering, obstructing or encroaching upon streets, etc.

81. Whoever, without the permission of the Deputy Commissioner alters, obstructs or encroaches upon any street or public drain, aqueduct or sewer, or displaces, takes up or alters the pavement or other materials or the fences or posts of any street or public place, or deposits building materials or makes any hole or excavation on or in any street, shall be punishable with fine which may extend to fifty rupees.

Picketing animals and collecting carts

82. Whoever, contrary to the orders of the Deputy Commissioner, pickets animals or collects carts on any public ground, or uses any such ground as a halting place for vehicles or animals of any description or as a place of encampment, or causes or permits animals to stray, shall be punishable with fine which may extend to twenty rupees

Carrying corpses by prohibited routes or so as to cause annoyance

83 Whoever carries a corpse along a prohibited route or in a manner likely to cause annoyance to the public, shall be punishable with fine which may extend to ten rupees

Destroying direction posts, lamp posts etc

84. Whoever, without being authorized by the Deputy Commissioner, defaces or disturbs any direction post or lamp post, or extinguishes any light in any street or public place, shall be punishable with fine which may extend to twenty rupees

Penalty for disobedience to orders under Chapter V

85. Whoever disobeys any bye law issued under section 68 or any lawful directions given by public notice or disobeys any written notice lawfully issued under the powers conferred by Chapter V or by rules under section 88 or fails to comply with the conditions subject to which any permission was given to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punishable on conviction with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day after the date of the conviction during which the [illegible] proved before a Magistrate to have been persisted in

Provided that when the notice fixes a time within wh[illegible] is to be done and no time is specified in this Regulat[illegible] the Magistrate to determine whether the time so fixed [illegible] time within the meaning of this Regulation

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CHAPTER VI

S[illegible]

86. The Deputy Commiss[illegible] control of the Commissioner [illegible]

87 The Chief Comm[illegible] declare that, from a date [illegible] 1850, shall apply, so far [illegible]

[illegible]

General rules.

88. (*1*) The Chief Commissioner may from time to time make rules consistent with this Regulation as to—

(*a*) the assessment and recovery of taxes, fees and monies claimable under this Regulation and for preventing evasion of the same;

(*b*) the authority on which money may be paid from the Bazar Fund and the management and regulation of any [1] Provident Fund, which may be established under section 5, sub-section (*3*);

(*c*) the conditions on which property under management of the Deputy Commissioner may be transferred by lease or otherwise;

(*d*) the control of traffic, public processions and music;

(*e*) the registration of births and deaths, the regulation of vaccination, compulsory or otherwise, and the taking of a census;

(*f*) the offences under this Regulation or under rules made thereunder which shall be cognizable by the police; and

(*g*) generally for the purposes of this Regulation.

(*2*) The Deputy Commissioner, with the previous sanction of the Chief Commissioner, may by bye-law—

(*a*) render licenses necessary for the proprietors or drivers of vehicles, drawn by animals or persons, kept or plying for hire within the limits of a bazar, and fix the fees payable for such licenses, and the conditions on which they are to be granted and may be revoked; and

(*b*) limit the rates which may be demanded for the hire of any vehicle, and the loads to be carried by such vehicle when hired within a bazar for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours.

Rules with respect to disorderly persons.

89. The Chief Commissioner may make rules for the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, for the removal and exclusion from a bazar of disorderly persons, of persons convicted under Chapter XVII of the [2]Indian Penal Code, or ordered under the [3]Code of Criminal Procedure, 1898, to execute a bond for their good

XLV of [1860.] V of 18[98.]

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[1] For rules for the management and regulation of the Provident Fund for the servants paid from the Sibi Bazar Fund, see Gazette of India, 1912, Pt. II. p. 67, and *ibid* 1914, Pt. II, p. 1059.

[2] Genl. Acts, Vol. I.

[3] Genl. Acts, Vol. V.

behaviour, and of persons whom the Chief Commissioner deems it necessary to exclude from the bazar with or without assigning any reasons for excluding them therefrom

Penalties for breach of rules under sections 88 and 89 and continuance of such rules.

90. (*1*) In making any rule or bye-law under either of the two last foregoing sections, the Chief Commissioner or the Deputy Commissioner, as the case may be, may direct that a breach of it shall be punishable on conviction with fine which may extend to fifty rupees and, when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the date of such conviction during which the breach is proved before a Magistrate to have been persisted in

(*2*) No rule or by-law under either of the said sections shall come into force until it has been notified by the Chief Commissioner or the Deputy Commissioner, as the case may be

Brothels.

91. On the complaint of three or more inhabitants of a bazar that a house, in their immediate neighbourhood and within the limits of the bazar, is used as a brothel or by disorderly persons of any description to the annoyance of the respectable inhabitants of the vicinity, any Magistrate of the first class having, as such, jurisdiction in the place where the house is situated may summon the owner or tenant of the house to answer the complaint, and on being satisfied that the house is so used, and is a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it, and, if he fails to comply with such order within five days, may impose upon him a fine not exceeding twenty five rupees for every day thereafter on which it is proved that the house has continued to be so used

Penalty on officer or servant of bazar being interested in contract made with Deputy Commissioner.

92. If any officer or servant of a bazar is otherwise than with the permission in writing of the Commissioner directly or indirectly interested in any contract made with the Deputy Commissioner, he shall be deemed to
of 1860 have committed an offence under section 165 of the [1]Indian Penal Code

Suits and prosecutions.

93. No suit or prosecution shall be entertained by any Court against the Deputy Commissioner or any officer or person for anything in good faith done or purporting to be done in pursuance of powers conferred by or under this Regulation on the Deputy Commissioner, officer or person, whether the thing done was or was not authorized by the powers so conferred.

[illegible]

94. Where any land, whether within or without the limits of a bazar, is required for the purposes of this Regulation, the Chief Commissioner may
894. proceed to acquire it under the provisions of the Land Acquisition Act, 1894,

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[1] Genl Acts Vol. I [illegible]

and on payment by the Deputy Commissioner of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Chief Commissioner for the time being for the purposes of this Regulation.

Official not to be deemed interested in prosecution.

95. No Judge or Magistrate shall be deemed to be a party to, or personally interested in, any prosecution for an offence punishable under this Regulation or any rule thereunder or any other enactment within the meaning of section 556 of the [1]Code of Criminal Procedure, 1898, because as Deputy Commissioner he merely approved the prosecution.

Conduct of prosecution and enforcement of fines under this Regulation.

96. (*1*) Subject to such rules as the Chief Commissioner may make under section 88 prescribing the offences which shall be cognizable by the police, no Court shall take cognizance of an offence punishable under this Regulation or rule made thereunder except on the complaint of the Deputy Commissioner or of some person authorized by him in this behalf.

(*2*) In default of payment of any fine imposed under this Regulation or rule made thereunder, the defaulter shall be liable to simple imprisonment for a term not exceeding eight days.

Recovery of taxes, etc.

97. Any arrear of any tax or any fee or other money claimable by or on behalf of the Deputy Commissioner may, in addition to any manner provided under section 88, be recovered on application to a Magistrate having jurisdiction within the limits of the bazar by the distress and sale of any moveable property within those limits belonging to the person from whom the money is claimable ; and if payable by the owner in respect of any property, moveable or immoveable, such arrear shall be a charge on the property.

Irregularities not to invalidate proceedings.

98. No act done nor any proceeding taken under this Regulation shall be questioned on account of any defect or irregularity not affecting the merits of the case.

Validation of acts done before the commencement of this Regulation.

99. All acts of executive authority, proceedings, decrees and sentences which have been done, taken or passed in any bazar before this Regulation comes into force by any officer of the Government or by any person acting under his authority, or otherwise in pursuance of an order of the Government and which have been or may hereafter be ratified by the Chief Commissioner, shall be as valid and operative as if they had been done, taken or passed in accordance with law ; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that such acts, proceedings, decrees or sentences were not done, taken or passed in accordance with law.

[1] Genl. Acts, Vol. V.

REGULATION No V OF 1912

A Regulation further to amend the British Baluchistan Forest Regulation, 1890.

[*7th June, 1912*]

WHEREAS it is expedient further to amend the [1] British Baluchistan Forest Regulation, 1890 , It is hereby enacted as follows —

1. This Regulation may be called the British Baluchistan Forest (Amendment) Regulation, 1912 — Short title

2. In section 9, sub-sections (*1*), clause (*c*), and (6), and in section 10, sub section (*1*) of the [1]British Baluchistan Forest Regulation, 1890, for the words " with the previous sanction " the words " subject to the control " shall be substituted — Amendment of sections 9 and 10 Regulation V, 1890

REGULATION No II OF 1913

A Regulation to consolidate and amend the Regulations declaring the Law in force in British Baluchistan

[*18th August, 1913*]

WHEREAS it is expedient to consolidate and amend the Regulations declaring the Law in force in British Baluchistan , It is hereby enacted as follows —

1 (*1*) This Regulation may be called the British Baluchistan Laws Regulation, 1913 , and — Short title and commencement

(2) It shall come into force at once

2 The Local Government, with the previous sanction of the Governor General in Council, may, for administrative purposes, divide British Baluchistan into districts, and each of those districts into tahsils, and vary the limits of those districts and tahsils. — Division of British Baluchistan into districts and tahsils

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[1] *Supra* p. 104

Laws in force in British Baluchistan.

3. (*1*) So much of each of the enactments specified in Schedule I as is in force in the territories to which the enactment generally applies shall be deemed to be in force in British Baluchistan or in the part thereof specified in the Schedule, subject to the modifications therein stated, and to any amendments to which the enactments are for the time being subject in the territories to which they generally apply.

(*2*) An enactment not comprised in Schedule I shall not be deemed to be, or to have been, in force in British Baluchistan or in any part of British Baluchistan unless it is expressed, by special mention of British Baluchistan, or a part of British Baluchistan, to extend thereto, or, after the commencement of this Regulation, is[1] extended thereto in exercise of the powers conferred by section 5 of the [2]Scheduled Districts Act, 1874, or by any other enactment XIV of for the time being in force.

(*3*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Gazette of India, declare that any enactment which is comprised in Schedule I, or which may, after the commencement of this Regulation, be extended in exercise of any such powers as aforesaid, shall no longer be in force in British Baluchistan or in any part of British Baluchistan specified in the notification.

Modification of the Indian Stamp Act, 1899, as in force in British Baluchistan.

4. The provisions of the [3] Indian Stamp Act, 1899, with respect to the II of 18 consequences of instruments not being duly stamped, shall be read as not applying to any instrument which may have been executed in British Baluchistan before the [4] 19th April, 1890.

Construction of enactments.

5. (*1*) For the purpose of facilitating the application of any enactment for the time being in force in British Baluchistan, a Court may construe the enactment with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court.

(*2*) All references in enactments in force in British Baluchistan to the Gazette or to the local official Gazette shall be construed as referring to the Gazette of India.

Repeals.

6. The enactments mentioned in Schedule II are repealed to the extent specified in the fourth column thereof.

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[1]For a list of such Acts *see* Appendix, *infra*.

[2]Genl. Acts, Vol. II.

[3]Genl. Acts, Vol. V.

[4]This is the date from which the British Baluchistan Laws Regulation, 1890, which was superseded by this Regulation, was brought into force.

SCHEDULE I.

(SEE SECTION 3)

Enactments to be deemed in force in British Baluchistan.

1	2	3	4
Year	Number	Short title	Modifications and restrictions.
		Bengal Regulations	
1812	XI	The Bengal Foreign Immigrants Regulation, 1812	
1818	III	The Bengal State Prisoners Regulation, 1818	
		Acts of the Governor General in Council	
1843	V	The Indian Slavery Act, 1843 .	
1850	XVIII	The Judicial Officers' Protection Act, 1850	
„	XXXIV	The State Prisoners Act, 1850	
1852	XXX	The Indian Naturalization Act, 1852 .	
1855	XXIV	The Penal Servitude Act, 1855 . .	
1857	XI	The State Offences Act, 1857 . .	
1858	III	The State Prisoners Act, 1858 . . .	Section 5 only.
1859	IX	The Forfeiture Act, 1859 . .	The last paragraph of section 18 as to pardoned persons shall be omitted.
1860	IX	The Employers and Workmen (Disputes) Act, 1860	
„	XXI	The Societies Registration Act, 1860 .	
„	XLV	The Indian Penal Code, 1860 . .	
1861	V	The Police Act, 1861 . . .	
„	XVI	The Stage-Carriages Act, 1861 . .	
1864	III	The Foreigners Act, 1864 . .	
1865	X	The Indian Succession Act, 1865 . .	
„	XV	The Parsi Marriage and Divorce Act, 1865	

SCHEDULE I—*contd.*

1	2	3	4
Year.	Number.	Short title.	Modifications and restrictions.
		Acts of the Governor General in Council—contd.	
1865	XXI	The Parsi Intestate Succession Act, 1865 .	
1867	III	The Public Gambling Act, 1867 . .	
1869	IV	The Indian Divorce Act	
,,	XX	The Indian Volunteers Act, 1869 . .	
1870	VII	The Court-fees Act, 1870 . . .	In section 7 (v) (b) for the word 'five' the word 'ten' shall be substituted.
1871	I	The Cattle Trespass Act, 1871 . .	
,,	V	The Prisoners Act, 1871 . . .	
,,	XXIII	The Pensions Act, 1871	
1872	I	The Indian Evidence Act, 1872 . .	In section 25 after the words "Police Officer" the words "who is not a Magistrate" shall be inserted.
,,	III	The Special Marriage Act, 1872 . .	
,,	IX	The Indian Contract Act, 1872 . .	
,,	XV	The Indian Christian Marriage Act, 1872 .	
1873	X	The Indian Oaths Act, 1873 . . .	
1874	II	The Administrator General's Act, 1874 .	
,,	IV	The Foreign Recruiting Act, 1874 . .	
,,	IX	The European Vagrancy Act, 1874 . .	
,,	XIV	The Scheduled Districts Act, 1874 . .	
1875	IX	The Indian Majority Act, 1875 . .	
1877	I	The Specific Relief Act, 1877 . . .	Section 9 only.

SCHEDULE I—*contd*

1	2	3	4
Year	Number	Short title.	Modifications and restrictions
		Acts of the Governor General in Council—contd	
1878	I	The Opium Act, 1878	
"	VI	The Indian Treasure Trove Act, 1878	
1879	XI	The Local Authorities Loans Act, 1879	
1880	XIII	The Vaccination Act, 1880	
1881	V	The Probate and Administration Act, 1881	
"	XXVI	The Negotiable Instruments Act, 1881	
1882	VI	The Indian Companies Act, 1882	
"	XII	The Indian Salt Act, 1882	
1883	XIX	The Land Improvement Loans Act, 1883	
1884	XII	The Agriculturists' Loans Act, 1884	Section 2 only
1885	XIII	The Indian Telegraph Act, 1885	
1886	VI	The Births, Deaths and Marriages, Registration Act, 1886	
1887	VII	The Suits Valuation Act, 1887	
"	IX	The Provincial Small Cause Courts [illegible] 1887	
"	XI	The Sind Pishin Railway [illegible]	
"	XVII	The Punjab Land Revenue [illegible]	Application restricted to the [illegible] of Pishin, [illegible] as follows — (1) The expressions [illegible] cal Commissioner [illegible] "Commissioner" [illegible] each [illegible] mean the Revenue [illegible]

SCHEDULE I—*contd.*

1	2	3	4
Year.	Number.	Short title.	Modifications and restrictions.
		Acts of the Governor General in Council—contd.	
1887	XVII	The Punjab Land Revenue Act, 1887—*contd.*	(2) The following provisions shall not be deemed to be in force, namely :— Sub-sections, (*2*) and (*3*) of section 1 ; Sub-sections (*1*) and (*3*) of section 2. Clauses (*b*) and (*c*) of sub-section (*9*) of section 3 ; Sub-section (*5*) of section 6 ; Section 7 ; Sub-section (*3*) of section 11 ; Clause (*c*) of section 13 ; Clause (*c*) of section 14 ; Section 42 ; In section 58 from the words "and from the appellate order" to the end of the section ; Clause (*b*) of sub-section (*2*) of section 73 ; Proviso (*a*) in section 75 ; Clause (*c*) of section 98 ; Clause (*e*) of sub-section (*2*) of section 117 ; Sub-section (*1*) of section 137.

SCHEDULE I—*contd*

1	2	3	4
Year	Number	Short title	Modifications and restrictions
		Acts of the Governor General in Council—contd	
1887	XVII	The Punjab Land Revenue Act, 1887—*contd*	(3) In sub section (2) of section 2 for the words 'under any of the repealed enactments' the words 'prior to the extension of this Act' shall be substituted (4) In sub section (13) of section 3 for the words 'the Legal Practitioners Act, 1879, except a Mukhtar,' the words 'section 12 of the British Baluchistan Civil Justice Regulation, 1896,' shall be substituted (5) For section 5, the following section shall be substituted namely:— '5 The Local Government may, by order in writing and with the previous sanction of the Governor General in Council, vary the limits of the tahsil of Pishin. (6) For sub section (2) of section 6, the following sub section shall be substituted, namely — "(2) The Deputy Commissioner for Pishin shall be the Collector of the tahsil of Pishin (7) From section 8 the words 'Commissioners, Deputy Commissioners, Assistant Commissioners and' shall be omitted

SCHEDULE I—*contd.*

1	2	3	4
Year.	Number.	Short title.	Modifications and restrictions.
		Acts of the Governor General in Council—contd.	
1887	XVII	The Punjab Land Revenue Act, 1887—concld.	(8) From sub-section (*4*) of section 11, the words "as aforesaid and" shall be omitted. (9) From clause (*a*) of sub-section (*1*) of section 27, the words "Financial Commissioner, Commissioner, or" shall be omitted. (10) From sub-section (*2*) of section 27, the words "Financial Commissioner, Commissioner" shall be omitted. (11) In sub-section (*1*) of section 43, for the words "either of the two last foregoing sections," the words "section 41" shall be substituted. (12) In clause (*d*) of sub-section (*2*) of section 117 for the words "Divisional Court or Chief Court, as the case may be," the words "Court of the Judicial Commissioner" shall be substituted. (13) In section 136 and in sub-section (*2*) of section 137, for the words and figures "Punjab Court Act, 1884," the words and figures "British Baluchistan Civil Justice Regulation, 1896," shall be substituted, and in sub-section (*2*) of section 137 the words "In the absence of any such notification" shall be omitted.

SCHEDULE I—*contd*

1	2	3	4
Year	Number	Short title	Modifications and restrictions.
		Acts of the Governor General in Council—contd	
1888	III	The Police Act 1888	
"	IV	The Indian Reserve Forces Act 1888	
1889	VII	The Succession Certificate Act, 1889	
"	XV	The Indian Official Secrets Act, 1889	
1890	XI	The Prevention of Cruelty to Animals Act, 1890	
1891	XVIII	The Bankers Books Evidence Act, 1891	
1892	II	The Marriages Validation Act, 1892	
1894	I	The Land Acquisition Act, 1894	
1895	VII	The Indian Companies (Memorandum of Association) Act, 1895	
"	XV	The Crown Grants Act, 1895	
1896	XII	The Excise Act, 1896	
1897	IV	The Indian Fisheries Act, 1897	
"	VIII	The Reformatory Schools Act, 1897	
"	X	The General Clauses Act, 1897	
"	XIV	The Indian Short Titles Act, 1897	

SCHEDULE I—*contd.*

1	2	3	4
[illegible]	[illegible]	[illegible]	[illegible]
		[illegible]	
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	
[illegible]	XIII	[illegible]	
[illegible]	VIII	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]	I	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]	III	[illegible]	
[illegible]	V	[illegible]	All except the following portions shall be omitted, namely:— *Sections.* (1) 15 to 23 both inclusive and 25 (Place of suing);— (2) 38 to 46 both inclusive (Courts by which decrees may be executed);

SCHEDULE I—*contd*

1	2	3	4
ear	Number	Short title.	Modifications and restrictions.
		Acts of the Governor General in Council—contd	
08	V	The Code of Civil Procedure, 1908—*contd*	(3) 47 (Questions to be determined by Court executing decree),
			(4) 48 (Limit of time for execution),
			(5) 54 (Procedure in execution regarding partition of *estate or separation of* share),
			(6) 55 to 59 both inclusive (Arrest and detention),
			(7) 60 to 64 both inclusive (Attachment),
			(8) 68 to 72 both inclusive (sale),
			(9) 74 (Resistance to execution),
			(10) 75 to 78 both inclusive (Commissions),
			(11) 79 (1) and 80 to 82 both inclusive ([illegible] against the Government or public officers in their official capacity),
			(12) 90 (Special case—Power to state case for [illegible] of Court),
			(13) 94 and 95 (supplemental proceedings),
			(14) 135 (Exemption from arrest under civil process),

SCHEDULE [illegible]

1	2	3
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible] 123 [illegible] where [illegible] attached [illegible] situated [illegible] District ;
		The First Schedule
		[illegible] 21 and [illegible]
		[illegible] Order XXI—[illegible] Rules 11 to [illegible] 17, 22, 23 [illegible] for [illegible] Rules 21 [illegible] 37, 3[illegible], 40 (Arrest and detention in the civil prison) [illegible] 48 (Attachment of salaries and allowances of Public officer or servant of Railway Company, or local authority);
		(18) Order XXV—the whole (Security for costs) ;
		(19) Order XXVI—the whole (Commissions) ;
		(20) Order XXVII—the whole (Suits by or against the Government or Public officers in their official capacity) ;

SCHEDULE I—*contd*

1	2	3	4
Year	Number.	Short title	Modifications and restrictions
		Acts of the Governor General in Council—contd	
1908	V	The Code of Civil Procedure, 1908 —*contd*	(21) Order XXVIII—the whole (Suits by or against Military men);
			(22) Order XXXII—the whole (Suits by or against minors and persons of unsound mind),
			(23) Order XXXIII—the whole (Suits by paupers),
			(24) Order XXXVI—the whole (Special case),
			(25) Order XXXVIII—Rules 1 to 6 both inclusive and 9 to 12 both inclusive (Arrest and attachment before judgment),
			(26) Order XXXIX Rules 6 to 10 both inclusive (Interlocutory orders),
			(27) Order XLIV—the whole (Pauper appeals),
			The Second Schedule
			(28) Paragraphs 17 and 18 (Order of reference on agreements to refer to arbitration),
			(29) Paragraphs 20 and 21 (Arbitration without the intervention of a court);

SCHEDULE I—*contd.*

1	2	3	4
Year.	Number.	Short title.	Modifications and restrictions.
		Acts of the Governor General in Council.—concld.	
1908	V	The Code of Civil Procedure, 1908—*concld.*	*The Third Schedule.* (30) The whole (Execution of decrees by Collectors).
"	IX	The Indian Limitation Act, 1908.	
"	XVI	The Indian Registration Act, 1908.	
1911	VIII	The Indian Army Act, 1911.	
1912	II	The Co-operative Societies Act, 1912 .	The Act shall be read as if the words "or the British Baluchistan Civil Justice Regulation, 1896, as the case may be" were added at the end of sub-section (3), of section 42.
1913	V	The White Phosphorus Matches Prohibition Act, 1913.	
		Regulations under 33 Vict., C. 3.	
1874	VII	The Punjab Frontier Jagir Revenue Collection Regulation, 1874.	The expression "Lieutenant-Governor," wherever it occurs in the said Regulation, shall be construed to mean the "Chief Commissioner of British Baluchistan."
1901	III	The Frontier Crimes Regulation, 1901 .	(1) All references to the Commissioner or to the Court of the Commissioner, shall be read as referring to the Chief Commissioner of British Baluchistan. (2) From section 8, sub-section (*1*), the words "and if a suit is not pending in respect of the dispute" and the words "the Members of the Council of Elders shall, in each case, be nominated and appointed by the Deputy Commissioner" shall be omitted.

SCHEDULE I—*contd*

1	2	3	4
Year	Number	Short title	Modifications and restrictions.
		Regulations under 33 Vict, C. 3—contd	
1901	III	The Frontier Crimes Regulation, 1901 —*contd*	
			(3) In section 11, sub section (*1*), the words "the Members of the Council of Elders shall, in each case, be nominated and appointed by the Deputy Commissioner" shall be omitted.
			(4) For section 11, sub-section (*2*), the following shall be substituted namely —
			"(*2*) Where a reference to a Council of Elders is made under sub-section (*1*) the names of the members shall, as soon as may be, be communicated to the accused person and any objection which he may then make to any such member shall be recorded The Deputy Commissioner shall consider every objection made by an accused person under this sub-section and may, in his discretion, either accept or reject the objection provided that, in the latter case, he shall record his reasons for so doing."

SCHEDULE I—*concld.*

1	2	3	4
Year.	Number.	Short title.	Modifications and restrictions.
		Regulations under 33 Vict., C. 3—concld.	
1907	I	The Upper Burma and Arakan Hills Frontier Crossing and Disturbed Districts Regulation, 1907.	(1) The expressions "or the Hill District of Arakan," "and the Hill District of Arakan," "or Shan or Karenni States," "or of the Hill District of Arakan," "and Arakan Hills" and "and to the Hill District of Arakan" shall be omitted, and the references to "Upper Burma" and "Commissioner of the Division" shall be read as references to "British Baluchistan" and "Chief Commissioner of British Baluchistan," respectively. (2) For section 2, clause (*a*), the following shall be substituted :— "(*a*) pass across the frontier of British Baluchistan into any foreign territory."

SCHEDULE II.

(SEE SECTION 6.)

Enactments repealed.

1	2	3	4
Year.	Number.	Short title.	Extent of repeal.
1890	I	The British Baluchistan Laws Regulation, 1890.	So much as is unrepealed.
"	V	The British Baluchistan Forest Regulation, 1890.	Sections 45 and 46.

APPENDIX TO PART I.

EXTENSIONS OF ENACTMENTS UNDER THE SCHEDULED DISTRICTS ACT, 1874 (XIV OF 1874)[1]

Year.	Number	Subject or short title.	Number and date of Notification	Page.
1878	XI	The Indian Arms Act, 1878	Nos 552-J, dated the 20th September 1913, and 198-S, dated the 28th February 1914	225

[1] Act XIV of 1874 was extended to British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913) *supra*, p. 209.

A.—Extensions of enactments under the Scheduled Districts Act, 1874 (XIV of 1874).

No. 552-J., dated the 20th September 1913.—In exercise of the powers conferred by sections 5 and 5A of the Scheduled Districts Act, 1874 (XIV of 1874), and with the previous sanction of the Governor General in Council, the Chief Commissioner of British Baluchistan is pleased, in continuation of Notification No. [1]551-J., dated the 20th September 1913, and in supersession of Notification No. 1960, dated the 6th April 1904, to extend sections 13, 14, the last 26 words of section 15, section 16 (except the words and figures "or by the issue of a Notification under section 15") and section 19, clauses (*e*), (*f*) and (*i*) of the Indian Arms Act, 1878 (XI of 1878), to the following local areas in British Baluchistan, namely :—

IN THE PISHIN DISTRICT.

(1) The Military Station, Native town and bazar at Pishin.
(2) The Military Station and bazar at Chaman.
(3) The fort and bazar at Killa Abdulla.
(4) The bazars at—
- (*a*) Sanzal,
- (*b*) Shelabagh,
- (*c*) Gulistan,
- (*d*) Syed Hamid,
- (*e*) Saranan.
- (*f*) Yaru Karez,
- (*g*) Bostan,
- (*h*) Khanai, and
- (*i*) Fullers Camp.

IN THE SIBI DISTRICT.

(5) The bazars at—
- (*a*) Kach,
- (*b*) Mudgorge,
- (*c*) Mangi,
- (*d*) Dirgi,
- (*e*) Zard Alu.
- (*f*) Khost,
- (*g*) Shahrig,
- (*h*) Nasik Frontier,
- (*i*) Harnai, and
- (*j*) Sanari.

(6) Ziarat.
(7) The Municipality of Sibi.

IN THE DUKI DISTRICT.

(8) The Civil Station and Bazar at Duki.
(9) The Military Station at Gumbaz.
(10) All railway lands generally.

[*Gazette of India, 1913, Part II, page 1799.*]

[1] Cancelled, *see* Notification No. 198-S., dated 28th February 1914, *infra*, p. 229.

No. 198 S, dated the 28th February 1911.—In exercise of the powers conferred by sections 5 and 5A of the Scheduled Districts Act, 1874 (XIV of 1874), and with the previous sanction of the Governor General in Council the Chief Commissioner of British Baluchistan is pleased—

I—to extend to British Baluchistan the Indian Arms Act, 1878 (XI of 1878), except the following portions thereof :—

(1) Section 1, clause (a) ;

(2) Sections 2, 3, 7, 8, 9, 13 to 16 (both inclusive), 29 and 30;

(3) In section 5, the words and figures from "but every" to the end ,

(4) Section 19, clauses (b), (e), (f) and (i), and

(5) The Schedules :

Provided that the application of section 19 (c) of the Act shall be subject to the condition that no prosecution for the contravention of section 6 with respect to rifled firearms or ammunition for such firearms, imported or exported in reasonable quantities for private use, shall be instituted without the sanction of the District Magistrate.

II—to declare that sections 5 and 6 of the said Act shall in their application be subject to the following modifications namely —

(1) In section 5 after the word "arms" where it occurs for the [illegible] time, the words "other than rifled firearms," and after the [illegible] "ammunition" where it occurs for the second time [illegible] "other than ball ammunition for rifled firearms" [illegible] added.

(2) In the second clause of section 6, for the words [illegible] than cannon)" the words and signs "(other [illegible] imported from or exported to Afghanistan [illegible] than cannon)," shall be substituted, and [illegible] "ammunition" where it occurs for the first [illegible] signs "(other than ball ammunition for rifled [illegible] to from or exported to Afghanistan, [illegible] added.

III—to declare that for the explanations [illegible] of the Indian Arms Act, 1878 (XI of 1878), the following [illegible] substituted —

To section 6 ,—

"Arms, ammunition or military stores [illegible] to the Agency territories [illegible]

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